

By the Committee on Criminal Justice; and Senator Villalobos

307-1987-02

1                                   A bill to be entitled  
2           An act relating to criminal mischief; amending  
3           s. 806.13, F.S.; requiring a person or minor  
4           who commits criminal mischief to pay additional  
5           fines and perform community service; providing  
6           for the parent or legal guardian of a minor to  
7           be liable for payment of a fine; authorizing  
8           the court to decline to order payment of a fine  
9           if the court finds that the person subject to  
10          payment of the fine is indigent; providing an  
11          effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Section 806.13, Florida Statutes, is  
16 amended to read:

17           806.13 Criminal mischief; penalties; penalty for  
18 minor.--

19           (1)(a) A person commits the offense of criminal  
20 mischief if he or she willfully and maliciously injures or  
21 damages by any means any real or personal property belonging  
22 to another, including, but not limited to, the placement of  
23 graffiti thereon or other acts of vandalism thereto.

24           (b)1. If the damage to such property is \$200 or less,  
25 it is a misdemeanor of the second degree, punishable as  
26 provided in s. 775.082 or s. 775.083.

27           2. If the damage to such property is greater than \$200  
28 but less than \$1,000, it is a misdemeanor of the first degree,  
29 punishable as provided in s. 775.082 or s. 775.083.

30           3. If the damage is \$1,000 or greater, or if there is  
31 interruption or impairment of a business operation or public

1 communication, transportation, supply of water, gas or power,  
2 or other public service which costs \$1,000 or more in labor  
3 and supplies to restore, it is a felony of the third degree,  
4 punishable as provided in s. 775.082, s. 775.083, or s.  
5 775.084.

6 4. If the person has one or more previous convictions  
7 for violating this subsection, the offense under subparagraph  
8 1. or subparagraph 2. for which the person is charged shall be  
9 reclassified as a felony of the third degree, punishable as  
10 provided in s. 775.082, s. 775.083, or s. 775.084.

11 (2) Any person who willfully and maliciously defaces,  
12 injures, or damages by any means any church, synagogue,  
13 mosque, or other place of worship, or any religious article  
14 contained therein, commits ~~is guilty of~~ a felony of the third  
15 degree, punishable as provided in s. 775.082, s. 775.083, or  
16 s. 775.084, if the damage to the property is greater than  
17 \$200.

18 (3) Whoever, without the consent of the owner thereof,  
19 willfully destroys or substantially damages any public  
20 telephone, or telephone cables, wires, fixtures, antennas,  
21 amplifiers, or any other apparatus, equipment, or appliances,  
22 which destruction or damage renders a public telephone  
23 inoperative or which opens the body of a public telephone,  
24 commits ~~is guilty of~~ a felony of the third degree, punishable  
25 as provided in s. 775.082, s. 775.083, or s. 775.084;  
26 provided, however, that a conspicuous notice of the provisions  
27 of this subsection and the penalties provided is posted on or  
28 near the destroyed or damaged instrument and visible to the  
29 public at the time of the commission of the offense.

30 (4) Any person who willfully and maliciously defaces,  
31 injures, or damages by any means a sexually violent predator

1 detention or commitment facility, as defined in part V of  
2 chapter 394, or any property contained therein, commits is  
3 ~~guilty of~~ a felony of the third degree, punishable as provided  
4 in s. 775.082, s. 775.083, or s. 775.084, if the damage to  
5 property is greater than \$200.

6 (5)(a) The amounts of value of damage to property  
7 owned by separate persons, if the property was damaged during  
8 one scheme or course or conduct, may be aggregated in  
9 determining the grade of the offense under this section.

10 (b) Any person who violates this section may, in  
11 addition to any other criminal penalty, be required to pay for  
12 the damages caused by such offense.

13 (6)(a) Any person convicted under this section for an  
14 offense that is related to the placement of graffiti shall be  
15 punished by a fine of:

16 1. Not less than \$250 for a first conviction.

17 2. Not less than \$500 for a second conviction.

18 3. Not less than \$1,000 for a third or subsequent  
19 conviction.

20 (b) Any person convicted under this section for an  
21 offense that is related to the placement of graffiti shall be  
22 required to perform at least 40 hours of community service  
23 and, if possible, perform at least 100 hours of community  
24 service that involves the removal of graffiti.

25 (c) If a minor commits a delinquent act prohibited  
26 under paragraph (a), the parent or legal guardian of the minor  
27 is liable along with the minor for payment of the fine. The  
28 court may decline to order a person to pay a fine under  
29 paragraph (a) if the court finds that the person is indigent  
30 and does not have the ability to pay the fine.

31

1           (7)~~(6)~~ In addition to any other penalty provided by  
2 law, if a minor is found to have committed a delinquent act  
3 under this section for placing graffiti on any public property  
4 or private property, and:

5           (a) The minor is eligible by reason of age for a  
6 driver's license or driving privilege, the court shall direct  
7 the Department of Highway Safety and Motor Vehicles to revoke  
8 or withhold issuance of the minor's driver's license or  
9 driving privilege for not more than 1 year.

10           (b) The minor's driver's license or driving privilege  
11 is under suspension or revocation for any reason, the court  
12 shall direct the Department of Highway Safety and Motor  
13 Vehicles to extend the period of suspension or revocation by  
14 an additional period of not more than 1 year.

15           (c) The minor is ineligible by reason of age for a  
16 driver's license or driving privilege, the court shall direct  
17 the Department of Highway Safety and Motor Vehicles to  
18 withhold issuance of the minor's driver's license or driving  
19 privilege for not more than 1 year after the date on which he  
20 or she would otherwise have become eligible.

21           (8)~~(7)~~ A minor whose driver's license or driving  
22 privilege is revoked, suspended, or withheld under subsection  
23 (7)~~(5)~~ may elect to reduce the period of revocation,  
24 suspension, or withholding by performing community service at  
25 the rate of 1 day for each hour of community service  
26 performed. In addition, if the court determines that due to a  
27 family hardship, the minor's driver's license or driving  
28 privilege is necessary for employment or medical purposes of  
29 the minor or a member of the minor's family, the court shall  
30 order the minor to perform community service and reduce the  
31 period of revocation, suspension, or withholding at the rate

1 of 1 day for each hour of community service performed. As  
2 used in this subsection, the term "community service" means  
3 cleaning graffiti from public property.

4 (9)~~(8)~~ Because of the difficulty of confronting the  
5 blight of graffiti, it is the intent of the Legislature that  
6 municipalities and counties not be preempted by state law from  
7 establishing ordinances that prohibit the marking of graffiti  
8 or other graffiti-related offenses. Furthermore, as related  
9 to graffiti, such municipalities and counties are not  
10 preempted by state law from establishing higher penalties than  
11 those provided by state law and mandatory penalties when state  
12 law provides discretionary penalties. Such higher and  
13 mandatory penalties include fines that do not exceed the  
14 amount specified in ss. 125.69 and 162.21, community service,  
15 restitution, and forfeiture. Upon a finding that a juvenile  
16 has violated a graffiti-related ordinance, a court acting  
17 under chapter 985 may not provide a disposition of the case  
18 which is less severe than any mandatory penalty prescribed by  
19 municipal or county ordinance for such violation.

20 Section 2. This act shall take effect July 1, 2002.

21  
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
23 COMMITTEE SUBSTITUTE FOR  
24 Senate Bill 1580

- 25 - The CS clarifies that the minimum fines and community  
26 service provided for in the bill are required only in  
27 graffiti-related criminal mischief cases.  
28 - The CS restores deleted language which authorizes  
29 municipalities and counties to establish penalties more  
30 severe than those provided by state law in criminal  
31 mischief cases and requires the court, in juvenile  
delinquency cases, to hand down the more severe penalty.