
By: Delegates Klausmeier, D. Davis, DeCarlo, Mohorovic, McClenahan, M. Burns, Owings, Malone, Dembrow, Conway, Stocksdale, Hammen, Bonsack, Weir, and D. Murphy

Introduced and read first time: February 10, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Graffiti - Punishments for Adults and Juveniles**

3 FOR the purpose of requiring a court to order a person committing an act of graffiti to
4 pay restitution or perform community service; requiring the juvenile court to order
5 the child to perform community service or pay restitution or both; defining a certain
6 term; and generally relating to punishing certain persons for committing certain acts
7 relating to graffiti under certain circumstances.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 111 and 808
11 Annotated Code of Maryland
12 (1996 Replacement Volume)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article 27 - Crimes and Punishments**

16 111.

17 (a) Any person who shall wilfully and maliciously destroy, injure, deface or molest
18 any real or personal property of another shall be deemed guilty of a misdemeanor.

19 (b) If the amount of damage to the property defaced, destroyed, injured, or
20 molested has a value of less than \$300, the person who violates this section, on conviction,
21 is subject to a fine not exceeding \$500 or imprisonment not exceeding 60 days or both.

22 (c) If the amount of damage to the property defaced, destroyed, injured, or
23 molested has a value of \$300 or more, the person who violates this section, on conviction,
24 is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3 years or both.

25 (D) (1) FOR THE PURPOSES OF THIS SECTION, AN ACT OF "GRAFFITI" MEANS
26 A VIOLATION OF THIS SECTION BY PERMANENT DRAWING, PAINTING, OR MAKING
27 OF ANY MARK OR INSCRIPTION ON THE REAL OR PERSONAL PROPERTY OF

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1 ANOTHER PERSON WITHOUT THE PERMISSION OF THE OWNER OF THE REAL OR
2 PERSONAL PROPERTY.

3 (2) IN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTIONS (B)
4 AND (C) OF THIS SECTION, A PERSON WHO VIOLATES THIS SECTION BY COMMITTING
5 AN ACT OF GRAFFITI SHALL BE ORDERED TO PAY RESTITUTION OR PERFORM
6 COMMUNITY SERVICE OR BOTH.

7 808.

8 (a) (1) The juvenile court may enter a judgment of restitution against the parent
9 of a child, the child, or both in any case in which the court finds a child has committed a
10 delinquent act and during or as a result of the commission of that delinquent act has:

11 (i) Stolen, damaged, destroyed, converted, unlawfully obtained, or
12 substantially decreased the value of the property of another; or

13 (ii) Inflicted personal injury on another, requiring the injured person
14 to incur medical, dental, hospital, funeral, or burial expenses; or

15 (iii) Caused the victim of the delinquent act to incur reasonable
16 counseling expenses from a licensed health care provider, if the delinquent act involved:

17 1. Personal injury;

18 2. Child abuse under § 35C of this article;

19 3. Abuse or neglect of vulnerable persons under § 35D of this
20 article;

21 4. Incest, rape, or sexual offense in any degree;

22 5. Sodomy under § 553 of this article; or

23 6. Unnatural or perverted sexual practices under § 554 of this
24 article.

25 (2) The juvenile court may order the parent of a child, a child, or both to
26 make restitution to:

27 (i) The victim;

28 (ii) Any governmental entity, including the Criminal Injuries
29 Compensation Board; or

30 (iii) A third party payor, including an insurer, that has made payment
31 to the victim to compensate the victim for a property loss under paragraph (1)(i) of this
32 subsection or pecuniary loss under paragraph (1)(ii) of this subsection.

33 (3) (i) Restitution payments to the victim have priority over restitution
34 payments to a third party payor.

35 (ii) If the victim has been compensated for the victim's loss by a third
36 party payor, the juvenile court may order restitution payments to the third party payor in
37 the amount that the third party payor compensated the victim.

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1 (4) Payment of restitution to a victim under this section has priority over
2 payment of restitution to any governmental entity.

3 (b) Considering the age and circumstances of a child, the juvenile court may order
4 the child to make restitution to the wronged person personally.

5 (c) (1) A judgment rendered under this section may not exceed:

6 (i) As to property stolen, destroyed, converted, or unlawfully
7 obtained, the lesser of the fair market value of the property or \$10,000;

8 (ii) As to property damaged, or substantially decreased in value, the
9 lesser of the amount of damage or the decrease in value of the property not to exceed the
10 fair market value of the property or \$10,000; and

11 (iii) As to personal injuries inflicted, the lesser of the actual medical,
12 dental, hospital, funeral, and burial expenses incurred by the injured person as a result of
13 the injury or \$10,000.

14 (2) As an absolute limit against any one child, his parents, or both, a
15 judgment rendered under this section may not exceed \$10,000 for all acts arising out of a
16 single incident.

17 (d) A restitution hearing to determine the liability of a parent, a child, or both,
18 shall be held not later than 30 days after the disposition hearing and may be extended by
19 the juvenile court for good cause.

20 (e) A judgment of restitution against a parent may not be entered unless the
21 parent has been afforded a reasonable opportunity to be heard and to present
22 appropriate evidence in the parent's behalf. A hearing under this section may be held as
23 part of an adjudicatory or disposition hearing for the child.

24 (f) The judgment may be enforced in the same manner as enforcing monetary
25 judgments.

26 (g) The Department of Juvenile Justice is responsible for the collection of
27 restitution payments when the restitution order provides that restitution is to be made in
28 periodic or installment payments, as part of probation, or pursuant to a work plan.

29 (H) IN MAKING A DISPOSITION ON A FINDING THAT A CHILD AT LEAST 13
30 YEARS OLD HAS COMMITTED A VIOLATION UNDER ARTICLE 27, § 111 OF THE CODE
31 BY COMMITTING AN ACT OF GRAFFITI AS DEFINED IN ARTICLE 27, 111(D)(1) OF THE
32 CODE, THE COURT SHALL ORDER THE CHILD TO PERFORM COMMUNITY SERVICE
33 OR PAY RESTITUTION OR BOTH.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1997.