
By: Delegates Klausmeier, Holt, DeCarlo, Hammen, Mohorovic, and Gordon

Introduced and read first time: February 15, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing a court to order a person committing an act of graffiti to
4 pay restitution or perform community service; requiring a juvenile court, on finding
5 that a child has committed an act of graffiti, to order the Motor Vehicle
6 Administration to suspend the child's driver's license for a certain period of time
7 under certain circumstances; authorizing the juvenile court to order the child to
8 perform community service in lieu of ordering the child to pay restitution; defining
9 a certain term; and generally relating to punishing certain persons for committing
10 certain acts relating to graffiti under certain circumstances.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 111
14 Annotated Code of Maryland
15 (1992 Replacement Volume and 1995 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-801(i)
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1995 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Courts and Judicial Proceedings
23 Section 3-820(d) and 3-829
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1995 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article - Transportation
28 Section 16-206(b)
29 Annotated Code of Maryland
30 (1992 Replacement Volume and 1995 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 111.

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

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

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

13 (D) (1) FOR THE PURPOSES OF THIS SECTION, AN ACT OF "GRAFFITI" MEANS
14 A VIOLATION OF THIS SECTION BY DRAWING, PAINTING, OR MAKING OF ANY MARK
15 OR INSCRIPTION ON THE REAL OR PERSONAL PROPERTY OF ANOTHER PERSON
16 WITHOUT THE PERMISSION OF THE OWNER OF THE REAL OR PERSONAL PROPERTY.

17 (2) IN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTIONS (B)
18 AND (C) OF THIS SECTION, A PERSON WHO VIOLATES THIS SECTION BY COMMITTING
19 AN ACT OF GRAFFITI IS SUBJECT TO:

20 (I) AN ORDER OF RESTITUTION; OR

21 (II) AN ORDER TO PERFORM COMMUNITY SERVICE.

22 **Article - Courts and Judicial Proceedings**

23 3-801.

24 (i) "Court" means the circuit court of a county or Baltimore City sitting as the
25 juvenile court. In Montgomery County, it means the District Court sitting as the juvenile
26 court.

27 3-820.

28 (d) (1) (i) Subject to the provisions of [item (iii)] SUBPARAGRAPHS (III)
29 AND (IV) of this paragraph, in making a disposition on a finding that the child has
30 committed the violation specified in a citation, the court may order the Motor Vehicle
31 Administration to initiate an action, under the motor vehicle laws, to suspend the driving
32 privilege of a child licensed to operate a motor vehicle by the Motor Vehicle
33 Administration for a specified period of not less than 30 days nor more than 90 days.

34 (ii) In this paragraph "driver's license" means a license or permit to
35 drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

36 (iii) In making a disposition on a finding that the child has committed a
37 violation under Article 27, § 400 of the Code specified in a citation that involved the use
38 of a driver's license or a document purporting to be a driver's license, the court may order
39 the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law

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1 to suspend the driving privilege of a child licensed to operate a motorvehicle by the
2 Motor Vehicle Administration:

3 1. For a first offense, for 6 months; and

4 2. For a second or subsequent offense, until the child is 21 years
5 old.

6 (IV) IN MAKING A DISPOSITION ON A FINDING THAT A CHILD AT
7 LEAST 13 YEARS OLD HAS COMMITTED A VIOLATION UNDER ARTICLE 27, § 111 OF
8 THE CODE BY COMMITTING AN ACT OF GRAFFITI AS DEFINED IN ARTICLE 27, §
9 111(D)(1) OF THE CODE, THE COURT SHALL ORDER THE MOTOR VEHICLE
10 ADMINISTRATION TO SUSPEND THE DRIVING PRIVILEGE OF A CHILD LICENSED TO
11 OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION:

12 1. FOR A FIRST OFFENSE, FOR 1 YEAR; AND

13 2. FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 2 YEARS.

14 [(iv)] (V) If a child subject to a suspension under this subsection does not
15 hold a license to operate a motor vehicle on the date of the disposition, the suspension
16 shall commence on the date that the license is issued, or after the child applies and
17 becomes qualified to receive a license, or on the child's eighteenth birthday, whichever
18 occurs first.

19 (2) In addition to the dispositions under paragraph (1) of this subsection,
20 the court also may:

21 (i) Counsel the child or the parent or both, or order the child to
22 participate in an alcohol education or rehabilitation program that is in the best interest of
23 the child;

24 (ii) Impose a civil fine of not more than \$25 for the first violation and
25 a civil fine of not more than \$100 for the second and subsequent violations; or

26 (iii) Order the child to participate in a supervised work program for not
27 more than 20 hours for the first violation and not more than 40 hours for the second and
28 subsequent violations.

29 (3) (i) The provisions of paragraphs (1) and (2) of this subsection do not
30 apply to a child found to have committed a violation under Article 27, § 405A of the
31 Code.

32 (ii) In making a disposition on a finding that the child has committed a
33 violation under Article 27, § 405A of the Code, the court may:

34 1. Counsel the child or the parent or both, or order the child to
35 participate in a smoking cessation clinic, or other suitable presentation of the hazards
36 associated with tobacco use that is in the best interest of the child;

37 2. Impose a civil fine of not more than \$25 for the first violation
38 and a civil fine of not more than \$100 for a second or subsequent violation; or

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

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

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

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

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

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

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

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

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

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

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

32 **Article - Transportation**

33 16-206.

34 (b) (1) Pursuant to a court order under § 3-820(d) of the Courts Article, the
35 Administration shall initiate an action to suspend the driving privileges of a child for the
36 time specified by the court.

37 (2) If a child subject to a suspension under § 3-820(d) of the Courts Article
38 does not hold a license to operate a motor vehicle on the date of the court order, the
39 suspension shall commence on the date that the license is issued, or after the child applies

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1 and becomes qualified to receive a license, or on the child's eighteenth birthday,
2 whichever occurs first.

3 (3) On receipt of a notice described under Article 27, § 403(f) of the Code,
4 the Administration shall suspend the license of an individual described under Article 27,
5 § 403(f) of the Code:

6 (i) For a first offense, for 6 months; and

7 (ii) For a second or subsequent offense, until the individual is 21 years
8 old or for a period of 1 year, whichever is longer.

9 (4) If an individual subject to a suspension under paragraph (3) of this
10 subsection does not hold a license to operate a motor vehicle on the date that the
11 individual is found guilty of a Code violation, the suspension shall begin on the date that
12 the license is issued, or after the individual applies and becomes qualified to receive a
13 license, or on the individual's twenty-first birthday, whichever occurs first.

14 (5) The Administration may modify a suspension under this subsection or
15 issue a restricted license if:

16 (i) The license is required for the purpose of attending an alcohol
17 education or alcoholic prevention or treatment program;

18 (ii) The child or individual is required to drive a motor vehicle in the
19 course of employment;

20 (iii) It finds that the individual's or child's employment would be
21 adversely affected because the individual or child has no reasonable alternative means of
22 transportation to or from a place of employment; or

23 (iv) It finds that the individual's or child's education would be
24 adversely affected because the individual or child has no reasonable alternative means of
25 transportation for educational purposes.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1996.