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HB 1269/96 - JUD

1997 Regular Session  
7lr2145

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**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

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 17, 1997

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CHAPTER \_\_\_\_

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.

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

4 (D) (1) FOR THE PURPOSES OF THIS SECTION, AN ACT OF "GRAFFITI" MEANS  
5 A VIOLATION OF THIS SECTION BY PERMANENT DRAWING, PERMANENT PAINTING,  
6 OR MAKING OF ANY PERMANENT MARK OR INSCRIPTION ON THE REAL OR  
7 PERSONAL PROPERTY OF ANOTHER ~~PERSON~~ WITHOUT THE PERMISSION OF THE  
8 OWNER OF THE REAL OR PERSONAL PROPERTY.

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

13 (3) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, THE  
14 PROVISIONS OF § 807 OF THIS ARTICLE APPLY TO AN ORDER OF RESTITUTION  
15 UNDER THIS SECTION.

16 808.

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

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

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

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

26 1. Personal injury;

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

28 3. Abuse or neglect of vulnerable persons under § 35D of this  
29 article;

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

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

32 6. Unnatural or perverted sexual practices under § 554 of this  
33 article.

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

36 (i) The victim;

37 (ii) Any governmental entity, including the Criminal Injuries  
38 Compensation Board; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (H) IN MAKING A DISPOSITION ON A FINDING THAT A CHILD AT LEAST 13  
38 YEARS OLD HAS COMMITTED A VIOLATION UNDER ARTICLE 27, § 111 OF THE CODE  
39 BY COMMITTING AN ACT OF GRAFFITI AS DEFINED IN ARTICLE 27, 111(D)(1) OF THE

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1 CODE, THE COURT SHALL ORDER THE CHILD TO PERFORM COMMUNITY SERVICE  
2 OR PAY RESTITUTION OR BOTH.

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