

SENATE BILL 429

Unofficial Copy  
E1

1998 Regular Session  
(8lr1937)

*ENROLLED BILL*  
*-- Judicial Proceedings/Judiciary --*

Introduced by ~~Senator Green~~ Senators Green, Colburn, Forehand, Jimeno,  
and Middlebrooks

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Malicious Destruction of Property**

3 FOR the purpose of providing, with certain exceptions, that a certain number of acts  
4 pursuant to one scheme or continuing course of conduct may be considered as  
5 one malicious destruction of property offense and that the value of damage to  
6 the various properties may be aggregated in determining the penalty;  
7 establishing that separate counts may not be merged for sentencing if separate  
8 acts resulting in damage to the properties of one or several owners are set forth  
9 by separate counts within the same or separate charging documents;  
10 establishing that the value of property damage is not a substantive element of a  
11 malicious destruction of property offense; requiring that a determination of  
12 valuation of damage be made based on the evidence and applied for the purpose  
13 of imposing certain penalties; establishing that the value of damage shall be  
14 determined to be less than a certain amount under certain circumstances;  
15 ~~requiring a court to order certain restitution under certain circumstances;~~ and  
16 generally relating to malicious destruction of property.

1 BY repealing and reenacting, with amendments,  
2 Article 27 - Crimes and Punishments  
3 Section 111  
4 Annotated Code of Maryland  
5 (1996 Replacement Volume and 1997 Supplement)

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

8 **Article 27 - Crimes and Punishments**

9 111.

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

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

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

21 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, TWO  
22 OR MORE ACTS COMMITTED IN VIOLATION OF THIS SECTION PURSUANT TO ONE  
23 SCHEME OR CONTINUING COURSE OF CONDUCT, WHETHER FROM THE SAME OR  
24 SEVERAL ACTS UPON THE PROPERTY OF ONE OR SEVERAL PROPERTY OWNERS, MAY  
25 BE CONSIDERED AS ONE OFFENSE AND THE VALUE OF DAMAGE TO THE VARIOUS  
26 PROPERTIES MAY BE AGGREGATED IN DETERMINING THE PENALTY.

27 (2) IF SEPARATE ACTS RESULTING IN DAMAGE TO THE PROPERTIES OF  
28 ONE OR SEVERAL OWNERS ARE SET FORTH BY SEPARATE COUNTS WITHIN THE SAME  
29 OR SEPARATE CHARGING DOCUMENTS, THE SEPARATE COUNTS MAY NOT BE  
30 MERGED FOR SENTENCING.

31 (E) (1) THE VALUE OF DAMAGE IS NOT A SUBSTANTIVE ELEMENT OF AN  
32 OFFENSE UNDER THIS SECTION AND NEED NOT BE SET FORTH IN THE CHARGING  
33 DOCUMENT.

34 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A  
35 DETERMINATION OF VALUATION OF DAMAGE SHALL BE MADE BASED ON THE  
36 EVIDENCE AND APPLIED FOR THE PURPOSE OF IMPOSING THE PENALTIES  
37 ESTABLISHED IN THIS SECTION.

1 (3) IF IT CANNOT BE DETERMINED FROM THE EVIDENCE WHETHER THE  
2 VALUE OF THE DAMAGE TO THE PROPERTY IS MORE OR LESS THAN \$300, ITS VALUE  
3 SHALL BE DETERMINED TO BE LESS THAN \$300.

4 ~~(F) (1) IN ADDITION TO THE PENALTIES ESTABLISHED UNDER~~  
5 ~~SUBSECTIONS (B) AND (C) OF THIS SECTION AND NOTWITHSTANDING ANY OTHER~~  
6 ~~LAW TO THE CONTRARY, IF A COURT ACCEPTS A PLEA OF NOLO CONTENDERE,~~  
7 ~~ENTERS A CONVICTION, OR IMPOSES PROBATION BEFORE JUDGMENT, THE COURT~~  
8 ~~SHALL ORDER, AS A PART OF THE SENTENCE OR AS A CONDITION OF PROBATION OR~~  
9 ~~PROBATION BEFORE JUDGMENT, THAT THE DEFENDANT PAY RESTITUTION TO EACH~~  
10 ~~VICTIM IN AN AMOUNT DETERMINED FROM COMPETENT EVIDENCE ADMITTED~~  
11 ~~DURING TRIAL OR AT A SUBSEQUENT RESTITUTION HEARING THAT THE COURT MAY~~  
12 ~~REQUIRE.~~

13 ~~(2) THE AMOUNT OF RESTITUTION SHALL BE DETERMINED PRIOR TO~~  
14 ~~AND ORDERED BY THE COURT AT THE TIME OF SENTENCING OR OTHER~~  
15 ~~DISPOSITIONAL PHASE OF THE PROCEEDINGS.~~

16 [(d)] ~~(G)~~ (F) (1) For the purposes of this section, an act of "graffiti" means a  
17 violation of this section by permanent drawing, permanent painting, or making of any  
18 permanent mark or inscription on the real or personal property of another without  
19 the permission of the owner of the real or personal property.

20 (2) In addition to the penalties provided in subsections (b) and (c) of this  
21 section, a person who violates this section by committing an act of graffiti shall be  
22 ordered to pay restitution or perform community service or both.

23 (3) Except as otherwise provided by this section, the provisions of § 807  
24 of this article apply to an order of restitution under this section.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 1998.