
By: **Senator Green**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

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.

17 BY repealing and reenacting, with amendments,
18 Article 27 - Crimes and Punishments
19 Section 111
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1997 Supplement)

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

24 **Article 27 - Crimes and Punishments**

25 111.

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

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

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

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

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

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

22 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
23 DETERMINATION OF VALUATION OF DAMAGE SHALL BE MADE BASED ON THE
24 EVIDENCE AND APPLIED FOR THE PURPOSE OF IMPOSING THE PENALTIES
25 ESTABLISHED IN THIS SECTION.

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

29 (F) (1) IN ADDITION TO THE PENALTIES ESTABLISHED UNDER
30 SUBSECTIONS (B) AND (C) OF THIS SECTION AND NOTWITHSTANDING ANY OTHER
31 LAW TO THE CONTRARY, IF A COURT ACCEPTS A PLEA OF NOLO CONTENDERE,
32 ENTERS A CONVICTION, OR IMPOSES PROBATION BEFORE JUDGMENT, THE COURT
33 SHALL ORDER, AS A PART OF THE SENTENCE OR AS A CONDITION OF PROBATION OR
34 PROBATION BEFORE JUDGMENT, THAT THE DEFENDANT PAY RESTITUTION TO EACH
35 VICTIM IN AN AMOUNT DETERMINED FROM COMPETENT EVIDENCE ADMITTED
36 DURING TRIAL OR AT A SUBSEQUENT RESTITUTION HEARING THAT THE COURT MAY
37 REQUIRE.

38 (2) THE AMOUNT OF RESTITUTION SHALL BE DETERMINED PRIOR TO
39 AND ORDERED BY THE COURT AT THE TIME OF SENTENCING OR OTHER
40 DISPOSITIONAL PHASE OF THE PROCEEDINGS.

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

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

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

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