
By: ~~Senator Green~~ **Senators Green, Colburn, Forehand, Jimeno, and
Middlebrooks**

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Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
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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.

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:

1

Article 27 - Crimes and Punishments

2 111.

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

6 (b) If the amount of damage to the property defaced, destroyed, injured, or
7 molested has a value of less than \$300, the person who violates this section, on
8 conviction, is subject to a fine not exceeding \$500 or imprisonment not exceeding 60
9 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
12 conviction, is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3
13 years or both.

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

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

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

27 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
28 DETERMINATION OF VALUATION OF DAMAGE SHALL BE MADE BASED ON THE
29 EVIDENCE AND APPLIED FOR THE PURPOSE OF IMPOSING THE PENALTIES
30 ESTABLISHED IN THIS SECTION.

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

34 (F) (1) IN ADDITION TO THE PENALTIES ESTABLISHED UNDER
35 SUBSECTIONS (B) AND (C) OF THIS SECTION AND NOTWITHSTANDING ANY OTHER
36 LAW TO THE CONTRARY, IF A COURT ACCEPTS A PLEA OF NOLO CONTENDERE,
37 ENTERS A CONVICTION, OR IMPOSES PROBATION BEFORE JUDGMENT, THE COURT
38 SHALL ORDER, AS A PART OF THE SENTENCE OR AS A CONDITION OF PROBATION OR
39 PROBATION BEFORE JUDGMENT, THAT THE DEFENDANT PAY RESTITUTION TO EACH
40 VICTIM IN AN AMOUNT DETERMINED FROM COMPETENT EVIDENCE ADMITTED

1 DURING TRIAL OR AT A SUBSEQUENT RESTITUTION HEARING THAT THE COURT MAY
2 REQUIRE.

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

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

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

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

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