

HOUSE BILL 738

E1

0lr2528

By: **Delegate Olszewski**

Introduced and read first time: February 5, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Malicious Destruction of Property – Penalties**

3 FOR the purpose of increasing the penalties for willfully and maliciously destroying,
4 injuring, or defacing the real or personal property of another; requiring a court,
5 in the case of a conviction for causing malicious destruction by an act of graffiti,
6 to order the defendant to pay restitution; authorizing a court, in the case of a
7 conviction for causing malicious destruction by an act of graffiti, to order the
8 defendant to perform community service; and generally relating to the malicious
9 destruction of property.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 6–301
13 Annotated Code of Maryland
14 (2002 Volume and 2009 Supplement)

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

17 **Article – Criminal Law**

18 6–301.

19 (a) A person may not willfully and maliciously destroy, injure, or deface the
20 real or personal property of another.

21 (b) A person who, in violation of this section, causes damage of at least \$500
22 to the property is guilty of a misdemeanor and on conviction is subject to
23 imprisonment not exceeding 3 years or a fine not exceeding [~~\$2,500~~] **\$5,000** or both.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) A person who, in violation of this section, causes damage of less than
2 \$500 to the property is guilty of a misdemeanor and on conviction is subject to
3 imprisonment not exceeding 60 days or a fine not exceeding ~~[\$500]~~ **\$1,000** or both.

4 (d) (1) For purposes of this subsection, an act of "graffiti" means a
5 permanent drawing, permanent painting, or a permanent mark or inscription on the
6 property of another without the permission of the owner of the property.

7 (2) **(I)** In addition to the penalties set forth in subsections (b) and
8 (c) of this section, the court shall order a person convicted of causing malicious
9 destruction by an act of graffiti to pay restitution [or perform community service or
10 both].

11 **(II) IN ADDITION TO THE PENALTIES SET FORTH IN**
12 **SUBSECTIONS (B) AND (C) OF THIS SECTION AND SUBPARAGRAPH (I) OF THIS**
13 **PARAGRAPH, THE COURT MAY ORDER A PERSON CONVICTED OF CAUSING**
14 **MALICIOUS DESTRUCTION BY AN ACT OF GRAFFITI TO PERFORM COMMUNITY**
15 **SERVICE.**

16 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
17 order of restitution under this subsection.

18 (e) (1) Except as provided in paragraph (2) of this subsection, to
19 determine a penalty, the court may consider as one crime the aggregate value of
20 damage to each property resulting from one scheme or continuing course of conduct.

21 (2) If separate acts resulting in damage to the properties of one or
22 more owners are set forth by separate counts in one or more charging documents, the
23 separate counts may not be merged for sentencing.

24 (f) (1) The value of damage is not a substantive element of a crime under
25 this section and need not be stated in the charging document.

26 (2) The value of damage shall be based on the evidence and that value
27 shall be applied for the purpose of imposing the penalties established in this section.

28 (3) If it cannot be determined from the evidence whether the value of
29 the damage to the property is more or less than \$500, the value is deemed to be less
30 than \$500.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2010.