

2013 -- S 0548

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL OFFENSES -- TRESPASS AND VANDALISM

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 28, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-44-21.1 of the General Laws in Chapter 11-44 entitled "Trespass
2 and Vandalism" is hereby amended to read as follows:

3 **11-44-21.1. Graffiti -- Defacing private residences, offices, businesses or commercial**
4 **property. -- (a)(1)** Every person who shall willfully, maliciously or mischievously write upon,
5 paint, or otherwise deface the private property or residence of another, any office building,
6 business or commercial property or public building or public property, shall be guilty of a
7 misdemeanor ,except that when the damage to the property amounts to more than one thousand
8 dollars (\$1,000) such person so acting shall be guilty of a felony. ~~For the first offense, said~~
9 ~~penalty shall not exceed a five hundred dollar (\$500) fine and community service not exceeding~~
10 ~~one hundred (100) hours.~~ Every person convicted ~~of a second offense~~ under this section shall be
11 fined up to one thousand dollars (\$1,000) and shall be required to perform up to two hundred
12 (200) hours of community service. and is subject to imprisonment not exceeding one year. Each
13 person convicted under this section shall be ordered to make restitution in the full amount of
14 damage done unless waived by the court for good cause. The court may also require the offender
15 to perform other alternative forms of restitution or repair to the damaged property.

16 (2) Damages include removal costs, repair costs, or replacement costs.

17 (3) The court, upon conviction or adjudication, shall order restitution to the victim in the
18 amount of removal, repair, or replacement costs.

19 (4) An additional amount of one thousand dollars (\$1,000) in restitution shall be added to

1 removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be
2 interfered with in order to remove it, or the entity responsible for the area in which the clean-up is
3 to take place must provide assistance in order for the removal to take place safely.

4 (5) A person who voluntarily and at his/her own expense, removes graffiti for which he
5 or she is responsible may be credited for the removal costs against restitution ordered by a court.

6 (6) When a single occurrence of graffiti is committed by more than one individual, the
7 court may apportion the amount of restitution owed by each offender in accordance with each
8 offenders degree of culpability.

9 (b) When the person convicted of the crime of graffiti is a minor:

10 (1) The family court shall, when appropriate, order any child who is found to have
11 committed the crime of graffiti of private property to write a formal apology to the victim or
12 victims of such graffiti.

13 (2) The family court shall, when appropriate, order any child who is found to have
14 committed the crime of graffiti of public property to write a report on the history and significance
15 of that property to the community or on another topic, as determined by the court.

16 (3) The family court shall also order, when appropriate, any child who is found to have
17 committed the crime of graffiti to contribute to the restoration of the property or to the restitution
18 to the victim or victims of such graffiti by payment in money, by property repairs, by service to
19 the injured party, or by service to the community.

20 (4) Notwithstanding any other provision of this chapter, the family court may order the
21 parent or legal guardian of any child found to have committed the crime of graffiti, to submit
22 restitution to the victim or victims of such graffiti by payment in money if the child is in the
23 custody of and residing with such parent or guardian, and if the family court finds that the graffiti
24 was a direct result of the parent or legal guardian having neglected to exercise reasonable
25 supervision and control of the child's conduct. For the purposes of this section, liability for
26 compensation shall be limited to ten thousand dollars (\$10,000).

27 (5) If the person violates the family court's order to submit restitution under this section,
28 such person shall be guilty of contempt. The court may permit payments under this section to be
29 made in installments, for a period of up to seven (7) years, to be administered by the court.

30 (c) The family court may, in addition to any other order or decree the court makes under
31 this chapter, order the division of motor vehicles to:

32 (1) Suspend the minor's operator's license; or

33 (2) Invalidate the minor's learner's permit; for one year beginning the date of the order. If
34 the above subsection (c) is enacted, then the following subsection is suggested also.

1 SECTION 2. Chapter 11-44 of the General Laws entitled "Trespass and Vandalism" is
2 hereby amended by adding thereto the following section:

3 **11-44-21.2. Restitution or removal of graffiti -- Rescission of order suspending or**
4 **invalidating operator's license or learner's permit. --** If a court of suitable jurisdiction has
5 entered an order for suspension or invalidation of a minor's operator's license or a learner's permit
6 pursuant to section 11-44-21.1, and if the same court subsequently determines that the minor has
7 removed or painted over the graffiti or has made other suitable restitution, the court may:

8 (1) Rescind the order for suspension or invalidation; and/or

9 (2) Allow the minor to receive a license or permit before the period of suspension or
10 invalidation ends.

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO CRIMINAL OFFENSES -- TRESPASS AND VANDALISM

- 1 This act would amend and expand the penalties for creating graffiti and otherwise
- 2 defacing certain property.
- 3 This act would take effect upon passage.

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