

BILL ANALYSIS

Senate Research Center

H.B. 2151
By: Bohac et al. (Ellis)
Criminal Justice
5/18/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Graffiti is a public nuisance. H.B. 2151 increases the penalties applicable to offenses involving graffiti and imposes a fee.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Graffiti Accountability Act of 2007.

SECTION 2. Amends Article 42.037, Code of Criminal Procedure, by adding Subsection (s), as follows:

(s) Authorizes a court, if the court orders a defendant convicted of an offense under Section 28.08 (Graffiti), Penal Code, to make restitution to the victim of the offense, to order the defendant to make restitution as provided by Subsection (b)(1)(B) or by personally restoring the property by removing or painting over any markings the defendant made. Requires a court to order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that owns public property or erects a street sign or official traffic-control device on which the defendant makes the markings. Requires the amount of the restitution ordered to be equal to the lesser of the amount of restitution authorized by Subsection (b)(1)(B) or the cost to the political subdivision of restoring the public property, street sign, or official traffic-control device. Authorizes the court, if the court orders a defendant to make restitution under this subdivision and the defendant is financially unable to make the restitution, to order the defendant to perform a specific number of hours of community service, including service restoring the property by removing or painting over any markings the defendant made, to satisfy the restitution. Defines "official traffic-control device."

SECTION 3. Amends Article 102.0171(a) and (c), Code of Criminal Procedure, as follows:

(a) Requires a defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court to pay a \$50 juvenile delinquency prevention and graffiti eradication fee, rather than \$5 graffiti eradication fee, as a cost of court.

(c) Authorizes a county juvenile delinquency fund to be used only for certain purposes, including to provide educational and intervention programs and materials, including printed educational materials for distribution to primary and secondary school students, designed to prevent individuals from committing offenses under Section 28.08, Penal Code.

SECTION 4. Amends Section 54.046, Family Code, by amending Subsection (a) and adding Subsections (a-1) and (c), as follows:

(a) Authorizes the court, if a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code,

in addition to other conditions of probation, to order the child to reimburse the owner of the property for the cost of restoring the property or, with the consent of the owner of the property, restore the property by removing or painting over any markings made by the child on the property. Authorizes the court, under the aforementioned conditions and if the child made markings on public property, a street sign, or an official traffic-control device, to order the child to make to the affected political subdivision restitution in a certain amount or, with the consent of the political subdivision, to restore the affected property by removing or painting over any markings made by the child on the property.

(a-1) Defines "official traffic-control device."

(c) Authorizes the court, if a juvenile court orders a child to make restitution under Subsection (a) and the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution, to order the child to perform a specific number of hours of community services to satisfy the restitution.

SECTION 5. Amends Section 54.0461(a), Family Code, to make a conforming change.

SECTION 6. Amends Chapter 54, Family Code, by adding Section 54.0481, as follows:

Sec. 54.0481. RESTITUTION FOR DAMAGING PROPERTY WITH GRAFFITI. (a) Authorizes a juvenile court, in a disposition hearing under Section 54.04 regarding a child who has been adjudicated to have engaged in delinquent conduct that violates Section 28.08, Penal Code, to order the child to reimburse the owner of the property for the cost of restoring the property or, with the consent of the owner of the property, restore the property by removing or painting over any markings made by the child on the property. Authorizes the court, under the aforementioned conditions and if the child made markings on public property, a street sign, or an official traffic-control device, to order the child to make to the affected political subdivision restitution in a certain amount or, with the consent of the political subdivision, to restore the affected property by removing or painting over any markings made by the child on the property.

(b) Authorizes the court, if a juvenile court orders a child to make restitution under Subsection (a) and the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution, to order the child to perform a specific number of hours of community services to satisfy the restitution.

(c) Defines "official traffic-control device."

SECTION 7. Amends Section 102.041, Government Code, to make conforming changes.

SECTION 8. Amends Section 102.061, Government Code, to make conforming changes.

SECTION 9. Amends Section 102.081, Government Code, to make conforming changes.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: September 1, 2007.