

BILL ANALYSIS

C.S.H.B. 2151
By: Bohac
Judiciary
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Graffiti is a public nuisance. The purpose of this bill is to increase the penalties applicable to offenses involving graffiti and to impose a fee.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill would amend the Code of Criminal Procedure to add a subsection to Article 42.037 providing that if a court orders a defendant convicted under Section 28.08, Penal Code, the court may order the defendant to personally restore the property by removing or painting over any markings made by the defendant, as an alternative to financial restoration. The bill also requires a court to order a defendant convicted of a graffiti violation to make restitution to a political subdivision if the markings were made on a traffic control device. The amount of restitution is required to be the lesser of the value of the property under a provision of the Code of Criminal Procedure, and the cost to the political subdivision of restoring the street sign or official traffic control device. The bill would also impose a \$50 juvenile delinquency prevention fee in lieu of the existing \$5 graffiti eradication fee. The bill would amend Article 102.0171 to permit the juvenile delinquency prevention fund to provide materials to primary and secondary school students.

The bill would also amend the Family Code to add the option to order reimbursement to the authority of a judge placing a child on probation for a graffiti offense and to require restitution of the lesser of the cost of replacing or restoring a traffic control device unless financial inability exists.

The bill would add a new section to the Family Code providing that a court may order the parent or other responsible person of a child adjudicated guilty of a graffiti offense to reimburse the owner of the property or personally restore the property, with consent of the owner. Restitution by the parent or other responsible person is required for graffiti damage to street signs and official traffic control devices unless financial inability exists, in which case community service may be ordered.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The changes made in the substitute provide that a child, parent or responsible person who is financially unable to make restitution in the circumstance where a juvenile court disposes of case of a child adjudicated to have committed a graffiti violation, whether by probation or otherwise, where there has been damage to a traffic control device, may be ordered to perform community service in lieu of restitution. The original bill mandated restitution.