

AN ACT

relating to the prosecution and adjudication of the offense of graffiti and to the payment and use of a juvenile delinquency prevention and graffiti eradication fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Graffiti Accountability Act of 2007.

SECTION 2. Article 42.037, Code of Criminal Procedure, is amended by adding Subsection (s) to read as follows:

(s)(1) If a court orders a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to the victim of the offense, the court may 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.

(2) A court shall 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 markings in violation of Section 28.08, Penal Code. The amount of the restitution ordered must 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. If the court

1 orders a defendant to make restitution under this subdivision and
2 the defendant is financially unable to make the restitution, the
3 court may order the defendant to perform a specific number of hours
4 of community service, including service restoring the property by
5 removing or painting over any markings the defendant made, to
6 satisfy the restitution. For purposes of this subdivision,
7 "official traffic-control device" has the meaning assigned by
8 Section 541.304, Transportation Code.

9 SECTION 3. Articles 102.0171(a) and (c), Code of Criminal
10 Procedure, are amended to read as follows:

11 (a) A defendant convicted of an offense under Section 28.08,
12 Penal Code, in a county court, county court at law, or district
13 court shall pay a \$50 juvenile delinquency prevention and [~~\$5~~]
14 graffiti eradication fee as a cost of court.

15 (c) The clerks of the respective courts shall collect the
16 costs and pay them to the county treasurer or to any other official
17 who discharges the duties commonly delegated to the county
18 treasurer for deposit in a fund to be known as the county juvenile
19 delinquency prevention fund. A fund designated by this subsection
20 may be used only to:

21 (1) repair damage caused by the commission of offenses
22 under Section 28.08, Penal Code;

23 (2) provide educational and intervention programs and
24 materials, including printed educational materials for
25 distribution to primary and secondary school students, designed to
26 prevent individuals from committing offenses under Section 28.08,
27 Penal Code;

1 (3) provide to the public rewards for identifying and
2 aiding in the apprehension and prosecution of offenders who commit
3 offenses under Section 28.08, Penal Code;

4 (4) provide funding for teen recognition and teen
5 recreation programs;

6 (5) provide funding for local teen court programs;

7 (6) provide funding for the local juvenile probation
8 department; and

9 (7) provide educational and intervention programs
10 designed to prevent juveniles from engaging in delinquent conduct.

11 SECTION 4. Section 54.046, Family Code, is amended by
12 amending Subsection (a) and adding Subsections (a-1) and (c) to
13 read as follows:

14 (a) If a juvenile court places on probation under Section
15 54.04(d) a child adjudicated as having engaged in conduct in
16 violation of Section 28.08, Penal Code, in addition to other
17 conditions of probation, the court:

18 (1) may order the child to:

19 (A) reimburse the owner of the property for the
20 cost of restoring the property; or

21 (B) [7] with consent of the owner of the
22 property, [~~order the child as a condition of probation to~~] restore
23 the property by removing or painting over any markings made by the
24 child on the property; and

25 (2) if the child made markings on public property, a
26 street sign, or an official traffic-control device in violation of
27 Section 28.08, Penal Code, may order the child to:

1 (A) make to the political subdivision that owns
2 the public property or erected the street sign or official
3 traffic-control device restitution in an amount equal to the lesser
4 of the cost to the political subdivision of replacing or restoring
5 the public property, street sign, or official traffic-control
6 device; or

7 (B) with the consent of the political
8 subdivision, restore the public property, street sign, or official
9 traffic-control device by removing or painting over any markings
10 made by the child on the property, sign, or device.

11 (a-1) For purposes of Subsection (a), "official
12 traffic-control device" has the meaning assigned by Section
13 541.304, Transportation Code.

14 (c) If a juvenile court orders a child to make restitution
15 under Subsection (a) and the child, child's parent, or other person
16 responsible for the child's support is financially unable to make
17 the restitution, the court may order the child to perform a specific
18 number of hours of community service to satisfy the restitution.

19 SECTION 5. Section 54.0461(a), Family Code, is amended to
20 read as follows:

21 (a) If a child is adjudicated as having engaged in
22 delinquent conduct that violates Section 28.08, Penal Code, the
23 juvenile court shall order the child, parent, or other person
24 responsible for the child's support to pay to the court a \$50 [~~\$5~~]
25 juvenile delinquency prevention fee as a cost of court.

26 SECTION 6. Chapter 54, Family Code, is amended by adding
27 Section 54.0481 to read as follows:

1 Sec. 54.0481. RESTITUTION FOR DAMAGING PROPERTY WITH
2 GRAFFITI. (a) A juvenile court, in a disposition hearing under
3 Section 54.04 regarding a child who has been adjudicated to have
4 engaged in delinquent conduct that violates Section 28.08, Penal
5 Code:

6 (1) may order the child or a parent or other person
7 responsible for the child's support to make restitution by:

8 (A) reimbursing the owner of the property for the
9 cost of restoring the property; or

10 (B) with the consent of the owner of the
11 property, personally restoring the property by removing or painting
12 over any markings the child made; and

13 (2) if the child made markings on public property, a
14 street sign, or an official traffic-control device in violation of
15 Section 28.08, Penal Code, may order the child or a parent or other
16 person responsible for the child's support to:

17 (A) make to the political subdivision that owns
18 the public property or erected the street sign or official
19 traffic-control device restitution in an amount equal to the lesser
20 of the cost to the political subdivision of replacing or restoring
21 the public property, street sign, or official traffic-control
22 device; or

23 (B) with the consent of the political
24 subdivision, restore the public property, street sign, or official
25 traffic-control device by removing or painting over any markings
26 made by the child on the property, sign, or device.

27 (b) If a juvenile court orders a child to make restitution

1 under Subsection (a) and the child, child's parent, or other person
2 responsible for the child's support is financially unable to make
3 the restitution, the court may order the child to perform a specific
4 number of hours of community service to satisfy the restitution.

5 (c) For purposes of Subsection (a), "official
6 traffic-control device" has the meaning assigned by Section
7 541.304, Transportation Code.

8 SECTION 7. Section 102.041, Government Code, is amended to
9 read as follows:

10 Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN
11 DISTRICT COURT. The clerk of a district court shall collect fees
12 and costs on conviction of a defendant as follows:

13 (1) a jury fee (Art. 102.004, Code of Criminal
14 Procedure) . . . \$20;

15 (2) a fee for clerk of the court services (Art.
16 102.005, Code of Criminal Procedure) . . . \$40;

17 (3) a records management and preservation services fee
18 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

19 (4) a security fee on a felony offense (Art. 102.017,
20 Code of Criminal Procedure) . . . \$5;

21 (5) a security fee on a misdemeanor offense (Art.
22 102.017, Code of Criminal Procedure) . . . \$3;

23 (6) a juvenile delinquency prevention and graffiti
24 eradication fee (Art. 102.0171, Code of Criminal
25 Procedure) . . . \$50 [~~\$5~~]; and

26 (7) a court cost on conviction in Comal County (Sec.
27 152.0522, Human Resources Code) . . . \$4.

1 SECTION 8. Section 102.061, Government Code, is amended to
2 read as follows:

3 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
4 STATUTORY COUNTY COURT. The clerk of a statutory county court shall
5 collect fees and costs on conviction of a defendant as follows:

6 (1) a jury fee (Art. 102.004, Code of Criminal
7 Procedure) . . . \$20;

8 (2) a fee for services of the clerk of the court (Art.
9 102.005, Code of Criminal Procedure) . . . \$40;

10 (3) a records management and preservation services fee
11 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

12 (4) a security fee on a misdemeanor offense (Art.
13 102.017, Code of Criminal Procedure) . . . \$3;

14 (5) a juvenile delinquency prevention and graffiti
15 eradication fee (Art. 102.0171, Code of Criminal
16 Procedure) . . . \$50 [~~\$5~~];

17 (6) a court cost on conviction in Comal County (Sec.
18 152.0522, Human Resources Code) . . . \$4; and

19 (7) a juvenile case manager fee (Art. 102.0174, Code
20 of Criminal Procedure) . . . \$5.

21 SECTION 9. Section 102.081, Government Code, is amended to
22 read as follows:

23 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
24 COUNTY COURT. The clerk of a county court shall collect fees and
25 costs on conviction of a defendant as follows:

26 (1) a jury fee (Art. 102.004, Code of Criminal
27 Procedure) . . . \$20;

1 (2) a fee for clerk of the court services (Art.
2 102.005, Code of Criminal Procedure) . . . \$40;

3 (3) a records management and preservation services fee
4 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

5 (4) a security fee on a misdemeanor offense (Art.
6 102.017, Code of Criminal Procedure) . . . \$3;

7 (5) a juvenile delinquency prevention and graffiti
8 eradication fee (Art. 102.0171, Code of Criminal
9 Procedure) . . . \$50 [~~\$5~~]; and

10 (6) a juvenile case manager fee (Art. 102.0174, Code
11 of Criminal Procedure) . . . \$5.

12 SECTION 10. The changes in law made by this Act apply only
13 to an offense committed or conduct engaged in on or after the
14 effective date of this Act. An offense committed or conduct engaged
15 in before the effective date of this Act is covered by the law in
16 effect at the time the offense was committed or the conduct was
17 engaged in, and the former law is continued in effect for that
18 purpose. For purposes of this section, an offense was committed or
19 conduct was engaged in before the effective date of this Act if any
20 element of the offense or conduct occurred before that date.

21 SECTION 11. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 2151 was passed by the House on May 9, 2007, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2151 was passed by the Senate on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor