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H.B. No. 690

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the offense of graffiti.

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

SECTION 1. Section 28.08(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a state jail felony if:

(1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, a historic structure, or a community center that provides medical, social, or educational programs; and

(2) the amount of the pecuniary loss to real property or to tangible personal property is less than \$20,000.

SECTION 2. Section 28.08(e), Penal Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Historic structure" means a structure that:

(A) is publicly owned and included on the National Register of Historic Places;

(B) is designated as a Recorded Texas Historic Landmark; or

(C) is designated as a State Archeological Landmark.

SECTION 3. Section 54.0481, Family Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

1 (a) Except as provided by Subsection (a-1), a [A] juvenile
2 court, in a disposition hearing under Section 54.04 regarding a
3 child who has been adjudicated to have engaged in delinquent
4 conduct that violates Section 28.08, Penal Code:

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

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

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

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

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

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

26 (a-1) A juvenile court, in a disposition hearing described
27 by Subsection (a) involving a child who has previously been

1 adjudicated for having engaged in delinquent conduct that violates
2 Section 28.08, Penal Code, in addition to any other disposition
3 ordered, if the child made markings on a historic structure or other
4 property described in Section 28.08(d), Penal Code, or private
5 property, shall order the child and the parent or other person
6 responsible for the child's support to make restitution by
7 personally restoring the property by removing or painting over any
8 markings the child made, with the consent of the owner of the
9 property.

10 (a-2) A juvenile court may not require that a child or a
11 child's parent or other person responsible for the child's support
12 personally restore the property under this section if:

13 (1) the child, parent, or other person is physically
14 or mentally incapable of participating in the restoration; or

15 (2) the restoration is inherently dangerous or would
16 otherwise endanger the health or safety of the child, parent, or
17 other person.

18 SECTION 4. The change in law made by this Act to Section
19 54.0481, Family Code, applies only to conduct violating a penal law
20 that occurs on or after the effective date of this Act. Conduct
21 violating a penal law that occurs before the effective date of this
22 Act is governed by the law in effect on the date the conduct
23 occurred, and the former law is continued in effect for that
24 purpose. For purposes of this section, conduct violating a penal
25 law occurred before the effective date of this Act if any element of
26 the violation occurred before that date.

27 SECTION 5. The changes in law made by this Act to Sections

1 28.08(d) and (e), Penal Code, apply only to an offense committed on
2 or after the effective date of this Act. An offense committed
3 before the effective date of this Act is governed by the law in
4 effect on the date the offense was committed, and the former law is
5 continued in effect for that purpose. For purposes of this section,
6 an offense was committed before the effective date of this Act if
7 any element of the offense occurred before that date.

8 SECTION 6. This Act takes effect September 1, 2011.