

By: Farias

H.B. No. 3095

A BILL TO BE ENTITLED

AN ACT

relating to restitution for property damaged with graffiti by juveniles.

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

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

(a) Except as provided by Subsection (a-1), a [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:

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

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

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

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

(A) make to the political subdivision that owns the public property or erected the street sign or official

1 traffic-control device restitution in an amount equal to the lesser
2 of the cost to the political subdivision of replacing or restoring
3 the public property, street sign, or official traffic-control
4 device; or

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

9 (a-1) A juvenile court, in a disposition hearing described
10 by Subsection (a) involving a child who has previously been
11 adjudicated for having engaged in delinquent conduct that violates
12 Section 28.08, Penal Code, in addition to any other disposition
13 ordered:

14 (1) if the child made markings on private property,
15 shall order the child and the parent or other person responsible for
16 the child's support to make restitution by personally restoring the
17 property by removing or painting over any markings the child made,
18 with the consent of the owner of the property; and

19 (2) if the child made markings on public property,
20 including a street sign or an official traffic-control device,
21 shall order the child and the parent or other person responsible for
22 the child's support to restore the public property by removing or
23 painting over any markings made by the child on the property, with
24 the consent of the governmental entity that owns the property.

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

1 (1) the individual is physically or mentally incapable
2 of participating in the restoration; or

3 (2) the restoration is inherently dangerous or would
4 otherwise endanger the health or safety of the individual.

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

8 SECTION 2. The change in law made by this Act applies only
9 to conduct violating a penal law that occurs on or after the
10 effective date of this Act. Conduct violating a penal law that
11 occurs before the effective date of this Act is governed by the law
12 in effect on the date the conduct occurred, and the former law is
13 continued in effect for that purpose. For purposes of this section,
14 conduct violating a penal law occurred before the effective date of
15 this Act if any element of the violation occurred before that date.

16 SECTION 3. This Act takes effect September 1, 2011.