

AMENDED IN SENATE JUNE 10, 2008

AMENDED IN ASSEMBLY APRIL 17, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2609

**Introduced by Assembly Member Davis
(Coauthors: Assembly Members Anderson and Solorio)**

February 22, 2008

An act to amend Section 594 of the Penal Code, relating to vandalism.

LEGISLATIVE COUNSEL'S DIGEST

AB 2609, as amended, Davis. Vandalism: penalties: community service.

Existing law, amended by Proposition 21, an initiative measure enacted by voters at the March 7, 2000, statewide primary election, and requiring a $\frac{2}{3}$ vote of the Legislature to amend, makes a person who maliciously commits specified destructive acts with respect to another's property guilty of vandalism. Existing law grants the court the authority to order a defendant who is convicted of violating this provision, or to order the defendant and his or her parents, if the defendant is a minor, to clean up, repair, or replace the damaged property or keep the damaged property or another *specified property* in the community free of graffiti for up to one year.

This bill would, in addition, require a court, when appropriate and feasible, to impose the above cleanup penalties for any defendant who was convicted of violating those vandalism provisions ~~but whose sentence was suspended and who was granted probation~~, as specified. By increasing the penalties for a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 594 of the Penal Code is amended to
2 read:

3 594. (a) Every person who maliciously commits any of the
4 following acts with respect to any real or personal property not his
5 or her own, in cases other than those specified by state law, is
6 guilty of vandalism:

7 (1) Defaces with graffiti or other inscribed material.

8 (2) Damages.

9 (3) Destroys.

10 Whenever a person violates this subdivision with respect to real
11 property, vehicles, signs, fixtures, furnishings, or property
12 belonging to any public entity, as defined by Section 811.2 of the
13 Government Code, or the federal government, it shall be a
14 permissive inference that the person neither owned the property
15 nor had the permission of the owner to deface, damage, or destroy
16 the property.

17 (b) (1) If the amount of defacement, damage, or destruction is
18 four hundred dollars (\$400) or more, vandalism is punishable by
19 imprisonment in the state prison or in a county jail not exceeding
20 one year, or by a fine of not more than ten thousand dollars
21 (\$10,000), or if the amount of defacement, damage, or destruction
22 is ten thousand dollars (\$10,000) or more, by a fine of not more
23 than fifty thousand dollars (\$50,000), or by both that fine and
24 imprisonment.

25 (2) (A) If the amount of defacement, damage, or destruction is
26 less than four hundred dollars (\$400), vandalism is punishable by
27 imprisonment in a county jail not exceeding one year, or by a fine
28 of not more than one thousand dollars (\$1,000), or by both that
29 fine and imprisonment.

1 (B) If the amount of defacement, damage, or destruction is less
2 than four hundred dollars (\$400), and the defendant has been
3 previously convicted of vandalism or affixing graffiti or other
4 inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6,
5 or 640.7, vandalism is punishable by imprisonment in a county
6 jail for not more than one year, or by a fine of not more than five
7 thousand dollars (\$5,000), or by both that fine and imprisonment.

8 (c) Upon conviction of any person under this section for acts
9 of vandalism consisting of defacing property with graffiti or other
10 inscribed materials, the court ~~may shall, when appropriate and~~
11 ~~feasible~~, in addition to any punishment imposed under subdivision
12 (b), order the defendant to clean up, repair, or replace the damaged
13 property himself or herself, or order the defendant, and his or her
14 parents or guardians if the defendant is a minor, to keep the
15 damaged property or another specified property in the community
16 free of graffiti for up to one year. Participation of a parent or
17 guardian is not required under this subdivision if the court deems
18 this participation to be detrimental to the defendant, or if the parent
19 or guardian is a single parent who must care for young children.
20 *If the court finds that graffiti cleanup is inappropriate, the court*
21 *shall consider other types of community service, where feasible.*

22 ~~(d) If the imposition or execution of sentence is suspended and~~
23 ~~a defendant is granted probation following conviction under~~
24 ~~subdivision (b), the court shall, when appropriate and feasible,~~
25 ~~order the defendant to clean up, repair, or replace the damaged~~
26 ~~property himself or herself, or shall order the defendant and his or~~
27 ~~her parents or guardians, if the defendant is a minor, to keep the~~
28 ~~damaged property, or another specified property in the community,~~
29 ~~free of graffiti for up to one year. Participation of a parent or~~
30 ~~guardian is not required if the court deems this participation to be~~
31 ~~detrimental to the defendant, or if the parent or guardian is a single~~
32 ~~parent who must care for young children.~~

33 (e)

34 (d) If a minor is personally unable to pay a fine levied for acts
35 prohibited by this section, the parent of that minor shall be liable
36 for payment of the fine. A court may waive payment of the fine,
37 or any part thereof, by the parent upon a finding of good cause.

38 (f)

39 (e) As used in this section, the term “graffiti or other inscribed
40 material” includes any unauthorized inscription, word, figure,

1 mark, or design, that is written, marked, etched, scratched, drawn,
2 or painted on real or personal property.

3 ~~(g)~~

4 (f) The court may order any person ordered to perform
5 community service or graffiti removal pursuant to paragraph (1)
6 of subdivision (c) to undergo counseling.

7 ~~(h)~~

8 (g) This section shall become operative on January 1, 2002.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.