

ASSEMBLY BILL

No. 1909

Introduced by Assembly Member Lopez

February 11, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1909, as introduced, Lopez. Vandalism.

Existing law, amended by Proposition 21, an initiative measure enacted by voters at the March 7, 2000, statewide primary election, makes a person who maliciously commits specified destructive acts with respect to another's property guilty of vandalism. The initiative measure reduced from \$50,000 to \$400 or more, the amount of damage caused by the vandalism that would result in punishment by imprisonment in state prison or a county jail for a term not exceeding one year, by a fine of not more than \$10,000, or by both that fine and imprisonment, as specified. Existing law states if the amount of damage is less than \$400, vandalism is punishable by imprisonment in a county jail not exceeding one year, by a fine of not more than \$1,000, or by both that fine and imprisonment.

This bill would increase the damages threshold for determining the level of punishment for vandalism from \$400 to \$950.

Proposition 21 prohibits the Legislature from amending that act except by a roll call vote, two-thirds of the membership of each house concurring.

Because the bill would increase the threshold of vandalism damages that would result in specified punishment and thereby amend a provision of that initiative measure, it would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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)~~ *nine hundred fifty dollars (\$950)* or
19 more, vandalism is punishable by imprisonment pursuant to
20 subdivision (h) of Section 1170 or in a county jail not exceeding
21 one year, or by a fine of not more than ten thousand dollars
22 (\$10,000), or if the amount of defacement, damage, or destruction
23 is ten thousand dollars (\$10,000) or more, by a fine of not more
24 than fifty thousand dollars (\$50,000), or by both that fine and
25 imprisonment.

26 (2) (A) If the amount of defacement, damage, or destruction is
27 less than ~~four hundred dollars (\$400)~~, *nine hundred fifty dollars (\$950)*
28, vandalism is punishable by imprisonment in a county jail
29 not exceeding one year, or by a fine of not more than one thousand
30 dollars (\$1,000), or by both that fine and imprisonment.

31 (B) If the amount of defacement, damage, or destruction is less
32 than ~~four hundred dollars (\$400)~~, *nine hundred fifty dollars (\$950)*,
33 and the defendant has been previously convicted of vandalism or
34 affixing graffiti or other inscribed material under Section 594,
35 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable by

1 imprisonment in a county jail for not more than one year, or by a
2 fine of not more than five thousand dollars (\$5,000), or by both
3 that fine and imprisonment.

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

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

22 (e) As used in this section, the term "graffiti or other inscribed
23 material" includes any unauthorized inscription, word, figure,
24 mark, or design, that is written, marked, etched, scratched, drawn,
25 or painted on real or personal property.

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

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