

JAN 25 2012

A BILL FOR AN ACT

RELATING TO GRAFFITI.

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

1 SECTION 1. Section 708-823, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§708-823 Criminal property damage in the fourth degree.

4 (1) A person commits the offense of criminal property damage in
5 the fourth degree if by means other than fire, the person
6 intentionally or knowingly damages the property of another, or
7 negligently contributes to the damage of the property of
8 another, without the other's consent.

9 (2) Criminal property damage in the fourth degree is a
10 petty misdemeanor[-]; provided that the maximum fine shall be
11 \$10,000.

12 (3) As used in this section, "negligently contributes"
13 means the continuation of a pattern of behavior after being
14 warned by a state or county agency that the pattern of behavior
15 aids vandalism of the property of another."

16 SECTION 2. Section 708-823.6, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending subsection (1) to read:



1 "(1) Whenever a person is sentenced under section 708-821,
2 708-822, 708-823, or 708-823.5 for an offense in which the
3 damage is caused by graffiti, in addition to any penalty
4 prescribed by those sections, the person shall be required to:

5 (a) Remove the graffiti from the damaged property within
6 thirty days of sentencing, if it has not already been
7 removed and where consent from the respective property
8 owner or owners has been obtained; ~~and~~

9 (b) For a period of time not to exceed two years from the
10 date of sentencing, along with any other person or
11 persons who may be sentenced under this section for
12 the same property, perform community service removing,
13 within fourteen days, any graffiti applied to other
14 property within two hundred fifty yards of the site of
15 the offense for which the person was sentenced, where
16 consent from the respective property owner or owners
17 has been obtained, even if the property was damaged by
18 another person; and

19 (c) Provide restitution to the respective property owner
20 or owners in an amount not to exceed the cost of
21 materials, supplies, equipment, and labor that may be
22 necessary for the removal of the graffiti and the



1 repair or restoration of the damaged property;
 2 provided that all costs shall be imposed even if the
 3 graffiti has already been removed;
 4 provided that removal of graffiti shall not place the person or
 5 others in physical danger nor inconvenience the public."

6 2. By amending subsection (3) to read:

7 "(3) For purposes of this section, "graffiti" means any
 8 unauthorized drawing, inscription, figure, or mark of any type
 9 intentionally created by paint, ink, chalk, dye, or similar
 10 substances[-], or the application of any adhesive substance,
 11 such as a sticker."

12 SECTION 3. This Act does not affect rights and duties that
 13 matured, penalties that were incurred, and proceedings that were
 14 begun before its effective date.

15 SECTION 4. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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S.B. NO. 3058

Report Title:

Graffiti; Criminal Property Damage in the Fourth Degree;
Sentencing

Description:

Makes negligently contributing to the damage of the property of another, an offense of criminal property damage in the fourth degree. Increases the maximum fine for criminal property damage in the fourth degree to \$10,000. Requires that a person sentenced for an offense involving criminal property damage in the second, third, or fourth degree, or aggravated criminal property damage, provide restitution to the respective property owner. Amends the definition of graffiti to include the application of an adhesive substance, such as a sticker.

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