

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1786 Session of
2009

INTRODUCED BY PASHINSKI, BOYD, BRENNAN, BRIGGS, CARROLL, CLYMER,
CRUZ, DeLUCA, FAIRCHILD, GEIST, GINGRICH, HARHAI, HARHART,
HOUGHTON, KORTZ, MANN, MELIO, MENSCH, MICOZZIE, MUNDY, MURT,
PHILLIPS, PRESTON, READSHAW, SAINATO, SCAVELLO, SIPTROTH,
K. SMITH, SOLOBAY, STERN, VULAKOVICH AND WALKO, JUNE 26, 2009

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 26, 2009

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 disposition of delinquent child and for sentencing for
4 criminal mischief.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 6352 of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subsection to read:
9 § 6352. Disposition of delinquent child.

10 * * *

11 (c) Graffiti.--

12 (1) When entering a disposition following an
13 adjudication of delinquency for an offense under 18 Pa.C.S. §
14 3304(a)(4) (relating to criminal mischief), 3307(a.1)
15 (relating to institutional vandalism), or both, the court
16 shall determine whether the child would benefit from the
17 provisions of this subsection and if so, the court shall

1 enter a disposition in accordance with the following:

2 (i) The disposition shall include a period of
3 supervised community service which, in cases involving
4 property damage and with the consent of the victim, shall
5 include repairing or restoring the damaged property if
6 the court determines that the repair or restoration of
7 the property would not place the child in a dangerous
8 situation and that the child is capable of repairing or
9 restoring the property.

10 (ii) (A) If property was damaged and the supervised
11 community service includes the repair or restoration
12 of property damaged and the child fails to repair or
13 restore the damaged property, the court shall require
14 the child to pay restitution in an amount equal to
15 the cost of repairing or restoring the property.

16 (B) If property was damaged, but the supervised
17 community service does not include the repair or
18 restoration of the damaged property, the court shall
19 require the child to pay restitution in an amount
20 equal to the cost of repairing or restoring the
21 property.

22 (iii) The court shall require a child adjudicated
23 delinquent for an offense in violation of 18 Pa.C.S. §
24 3304(a)(4) to pay a fine in an amount the court
25 determines will deter the child from engaging in future
26 conduct in violation of that section. The court may
27 require any child adjudicated delinquent for an offense
28 in violation of 18 Pa.C.S. § 3307(a.1) to pay a fine.

29 (2) A child's satisfactory completion of the
30 requirements of a disposition entered under this subsection

1 shall result in a dismissal of the charge or charges to which
2 the disposition applied and the expungement of the charge or
3 charges from the record of the child. The court may, with the
4 consent of the prosecuting attorney, dismiss and expunge
5 additional charges filed against the child which arose out of
6 the same transaction or occurrence as the offense for which
7 the disposition entered under this subsection applied.

8 Section 2. Section 9720 of Title 42 is amended to read:

9 § 9720. Sentencing for criminal mischief.

10 (a) Sentencing.--A person convicted of an offense under 18
11 Pa.C.S. [§§] § 3304(a)(4) (relating to criminal mischief) [and],
12 3307(a.1) (relating to institutional vandalism), or both, and
13 who in the opinion of the sentencing court would benefit, shall
14 be sentenced [to a term of supervised community service,
15 including repairing or restoring damaged property,] in
16 accordance with the following:

17 (1) The sentence shall include a period of supervised
18 community service, which, in cases involving damage to
19 property and with the consent of the victim, shall include
20 repairing or restoring the damaged property provided the
21 sentencing court determines that the repair or restoration of
22 the property would not place the person in a dangerous
23 situation and that the person is capable of repairing or
24 restoring the property, as follows:

25 [(1)] (i) If there was no damage to property, or if
26 the damage to the property is less than [\$200] \$150, the
27 term of community service shall not be less than [50
28 days] 25 hours nor more than [74 days] 40 hours.

29 [(2)] (ii) If the damage to the property is at
30 least [\$200] \$150 but less than \$1,000, the term of

community service shall not be less than [75 days] 40 hours nor more than [99 days] 80 hours.

[(3)] (iii) If the damage to the property is \$1,000 or more, the term of community service shall not be less than [100 days] 75 hours nor more than [200 days] 100 hours.

(2) (i) If property was damaged and the supervised community service includes the repair or restoration of property damaged and the person fails to repair or restore the damaged property, the court shall require the person to pay restitution in an amount equal to the cost of repairing or restoring the property.

(ii) If property was damaged, but the supervised community service does not include the repair or restoration of the damaged property, the court shall sentence the person to pay restitution in an amount equal to the cost of repairing or restoring the property.

(3) The sentencing court shall sentence a person convicted of an offense in violation of section 3304(a) (4) to pay a fine in an amount the court determines will deter the person from engaging in future conduct in violation of that section. The sentencing court may sentence a person convicted of an offense in violation of section 3307(a.1) to pay fine.

(b) Satisfactory completion of community service program.--
[Satisfactory] A person's satisfactory completion of [the community service program under] a sentence imposed under subsection (a) shall result in a dismissal of the charges to which the sentence applied and their expungement [of] from the record of the person sentenced under subsection (a). The court may, with the consent of the prosecuting attorney, dismiss and

1 expunge additional charges filed against the person which arose
2 out of the same transaction or occurrence as the offense for
3 which the sentence was imposed under this section. The court
4 shall follow procedures similar to those established for the
5 Accelerated Rehabilitative Disposition Program.

6 Section 3. This act shall take effect in 60 days.