

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 632 Session of  
1999

INTRODUCED BY RAMOS, BELARDI, MELIO, YOUNGBLOOD, M. COHEN,  
LAUGHLIN, PESCI, MAHER, CARN, HARHAI, WASHINGTON AND  
ROBINSON, FEBRUARY 22, 1999

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 22, 1999

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of  
2 the Pennsylvania Consolidated Statutes, further providing for  
3 institutional vandalism; defining the offense of vandalism;  
4 providing for graffiti removal and abatement, for community  
5 service and for work release; further providing for the  
6 revocation or suspension of operating privilege; and  
7 providing penalties.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 3307 of Title 18 of the Pennsylvania  
11 Consolidated Statutes is amended to read:

12 § 3307. Institutional vandalism.

13 (a) Offenses defined.--A person commits the offense of  
14 institutional vandalism if he knowingly desecrates, as defined  
15 in section 5509 (relating to desecration of venerated objects),  
16 vandalizes, defaces or otherwise damages:

17 (1) any church, synagogue or other facility or place  
18 used for religious worship or other religious purposes;

19 (2) any cemetery, mortuary or other facility used for  
20 the purpose of burial or memorializing the dead;

1           (3) any school, educational facility, community center,  
2           municipal building, courthouse facility, State or local  
3           government building or vehicle or juvenile detention center;

4           (4) the grounds adjacent to and owned or occupied by any  
5           facility set forth in paragraph (1), (2) or (3); or

6           (5) any personal property located in any facility set  
7           forth in this subsection.

8           (a.1) Illegal possession.--A person commits the offense of  
9           institutional vandalism if, with intent to violate subsection  
10          (a), the person carries an aerosol spray-paint can, broad-tipped  
11          indelible marker or similar marking device onto property  
12          identified in subsection (a).

13          (b) Grading.--An offense under this section is a felony of  
14          the third degree if the act is one of desecration as defined in  
15          section 5509 or if the actor causes pecuniary loss in excess of  
16          \$5,000. Pecuniary loss includes the cost of repair or  
17          replacement of the property affected. Otherwise, institutional  
18          vandalism is a misdemeanor of the second degree.

19          (c) Community service.--Upon conviction of any person under  
20          this section, the court may in addition to or in lieu of any  
21          other punishment imposed order the defendant to participate in a  
22          graffiti abatement program or a community service program as  
23          follows:

24                (1) For a first conviction under this section, community  
25                service not to exceed 100 hours over a period of not more  
26                than 90 days during a time other than the defendant's hours  
27                of school attendance or employment.

28                (2) For a second conviction under this section,  
29                community service not to exceed 200 hours over a period of  
30                180 days during a time other than the defendant's hours of

1 school attendance or employment.

2 (3) For a third or subsequent conviction under this  
3 section, community service not to exceed 300 hours over a  
4 period of not more than 240 days during a time other than the  
5 defendant's hours of school attendance or employment.

6 (d) Community service for certain defendants.--Any person  
7 who has been twice convicted under this section, or twice  
8 convicted under section 3310 (relating to vandalism), or  
9 convicted under both sections and who has been incarcerated for  
10 at least one of such convictions, may be ordered by the court as  
11 a condition of probation to perform community service not to  
12 exceed 300 hours over a period of not more than 240 days during  
13 a time other than the defendant's hours of school attendance or  
14 employment.

15 (e) Counseling.--The court may order any person ordered to  
16 perform community service or graffiti removal under this section  
17 to undergo counseling.

18 Section 2. Title 18 is amended by adding sections to read:  
19 § 3310. Vandalism.

20 (a) Offense defined.--A person commits the offense of  
21 vandalism if the person maliciously defaces with graffiti or  
22 other inscribed material or damages or destroys any real or  
23 personal property not his own.

24 (b) Grading and penalties.--An offense under this section  
25 is:

26 (1) A summary offense if the amount of defacement,  
27 damage or destruction is \$1,000 or less, such offense being  
28 punishable by a fine of not more than \$1,000 or imprisonment  
29 of not more than six months, or both.

30 (2) A misdemeanor of the second degree if the

defacement, damage or destruction is more than \$1,000, but not more than \$5,000.

(3) A misdemeanor of the first degree if the amount of defacement, damage or destruction is more than \$5,000.

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

(d) Counseling.--The court may order any person ordered to perform community service or graffiti removal under this section to undergo counseling.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Graffiti abatement program." A program adopted by a city, county or city and county by resolution or ordinance that provides for the administration and financing of graffiti removal, community education on the prevention of graffiti and enforcement of graffiti laws.

"Graffiti or other inscribed material." Any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property.

§ 3311. Graffiti and vandalism abatement programs.

(a) Funding.--A city, county or city and county may enact an ordinance to provide for the use of city or county funds to cover the costs of the removal of graffiti or other inscribed material from publicly or privately owned real or personal property located within the city or county that has been defaced

1 with graffiti or other inscribed material.

2 (b) Limitation.--The ordinance shall authorize only the  
3 removal of graffiti or inscribed material itself or, if the  
4 graffiti or other inscribed material cannot be removed cost  
5 effectively, the repair or replacement of the portion of the  
6 property that was defaced and not the painting, repair or  
7 replacement of other parts of the property that were not  
8 defaced.

9 (c) Consent of owner.--The removal, repair or replacement  
10 may be performed in the case of publicly owned real or personal  
11 property only after securing the consent of the public entity  
12 having jurisdiction over the property and, in the case of  
13 privately owned real or personal property, only after securing  
14 the consent of the owner or possessor.

15 (d) Nuisance.--This section does not preclude the abatement  
16 of graffiti or other inscribed material as a nuisance pursuant  
17 to the laws of this Commonwealth or the enforcement of any  
18 criminal law with respect to nuisance.

19 (e) Expenditure of funds.--A city or county by its ordinance  
20 under subsection (a) may elect to cover:

21 (1) Court costs.

22 (2) Attorney fees.

23 (3) Costs of the removal of graffiti or other inscribed  
24 material.

25 (4) Costs of repair and replacement of defaced property.

26 (5) Cost of administering and monitoring the  
27 participation of a defendant in a community service or in a  
28 graffiti abatement program.

29 (6) The law enforcement costs incurred by the city or  
30 county in identifying and apprehending the person who

1 created, caused the graffiti or other inscribed material.

2 (7) Such other costs as deemed appropriate.

3 (f) Definition.--As used in this section, the term "graffiti  
4 or other inscribed material" means any unauthorized inscription,  
5 word, figure, mark or design that is written, marked, etched,  
6 scratched, drawn or painted on any real or personal property.

7 § 3312. Work release for institutional vandalism and vandalism.

8 (a) General rule.--Notwithstanding any other law, the  
9 governing body of any county may authorize the sheriff or other  
10 official in charge of county correctional facilities to offer a  
11 voluntary program under which any person committed to the  
12 facility may participate in a work release program as described  
13 in this section, in which one day of participation will be in  
14 lieu of one day of confinement.

15 (b) Components of programs.--

16 (1) Performance of graffiti cleanup for local  
17 governmental entities, including participation in graffiti  
18 abatement as defined by this act, as approved by the sheriff  
19 or other official in charge of the correctional facilities.  
20 As a condition of assigning participants of a work release  
21 program to perform manual labor in support of nonprofit  
22 organizations pursuant to this section, the board of  
23 commissioners or county council shall obtain workers'  
24 compensation insurance which shall be adequate to cover work-  
25 related injuries incurred by those participants.

26 (2) Any person who is not able to perform manual labor  
27 as specified in this paragraph because of a medical  
28 condition, physical disability or age may participate in a  
29 work release program involving any other type of public  
30 sector work that is designated and approved by the sheriff or

1 other official in charge of county facilities.

2 (3) The sheriff or other official may permit a prisoner  
3 participating in a work release program to receive work  
4 release credit for participation in education, vocational  
5 training or substance programs in lieu of performing labor in  
6 a work release program on an hour-for-hour basis. However,  
7 credit for that participation may not exceed one-half of the  
8 hours established for the work release program, and the  
9 remaining hours shall consist of manual labor described in  
10 paragraph (1).

11 (4) The work release program shall be under the  
12 direction of a responsible person appointed by the sheriff or  
13 other official in charge.

14 (c) Hours of labor.--The hours of labor to be performed  
15 under this section shall be uniform for all persons committed to  
16 a facility in a county and may be determined by the sheriff or  
17 other official in charge of county correctional facilities. Each  
18 day shall be a minimum of eight hours and a maximum of ten hours  
19 in accordance with the normal working hours of county employees  
20 assigned to supervise the programs. However, reasonable  
21 accommodation may be made for participation in a program under  
22 subsection (b)(3).

23 (d) Further conditions.--

24 (1) The board of county commissioners may prescribe  
25 reasonable rules and regulations under which a work release  
26 program is operated and may provide that participants wear  
27 clothing of a distinctive character while performing the  
28 work. As a condition of participating in a work release  
29 program, a person shall promise to appear for work or  
30 assigned activity by signing a notice to appear before the

1 sheriff or at the educational, vocational or substance abuse  
2 program at a time and place specified in the notice and shall  
3 sign an agreement that the sheriff may immediately retake the  
4 person into custody to serve the balance of the sentence if  
5 the person fails to appear for the program at the time and  
6 place agreed to, does not perform the work or activity  
7 assigned or for any other reason is no longer a fit subject  
8 for release under this section. A copy of the notice shall be  
9 delivered to the person and a copy shall be retained by the  
10 sheriff.

11 (2) Any person who willfully violates a written promise  
12 to appear at the time and place specified in the notice  
13 commits a misdemeanor of the third degree.

14 (3) Whenever a peace officer has reasonable cause to  
15 believe the person has failed to appear at the time and place  
16 specified in the notice or fails to appear or work at the  
17 time and place agreed to or has failed to perform the work  
18 assigned, the peace officer may without a warrant retake the  
19 person into custody, or the court may issue a warrant for the  
20 retaking of the person into custody under this paragraph to  
21 complete the remainder of the original sentence. A peace  
22 officer may not retake a person into custody under this  
23 paragraph without a warrant for arrest unless the officer has  
24 a written order to do so, signed by the sheriff or other  
25 person in charge of the program, which describes with  
26 particularity the person to be retaken.

27 (e) Construction.--Nothing in this section shall be  
28 construed to require the sheriff or other official in charge to  
29 assign a person to a program pursuant to this section if it  
30 appears from the record that the person has refused to perform



1 satisfactorily as assigned or has not satisfactorily complied  
2 with the reasonable rules and regulations governing the  
3 assignment or any other order of the court. A person shall be  
4 eligible for work release under this section only if the sheriff  
5 or other official in charge concludes that the person is a fit  
6 subject for the program.

7 Section 3. Section 1532(b)(3) of Title 75, amended December  
8 21, 1998 (P.L. , No.151), is amended to read:

9 § 1532. Suspension of operating privilege.

10 \* \* \*

11 (b) Suspension.--

12 \* \* \*

13 (3) The department shall suspend the operating privilege  
14 of any driver for 12 months upon receiving a certified record  
15 of the driver's conviction of section 3731 (relating to  
16 driving under influence of alcohol or controlled substance)  
17 [or], 3733 (relating to fleeing or attempting to elude police  
18 officer), 18 Pa.C.S. § 3310 (relating to vandalism), or  
19 substantially similar offenses reported to the department  
20 under Article III of section 1581 (relating to Driver's  
21 License Compact), or an adjudication of delinquency based on  
22 section 3731 [or], 3733 or 18 Pa.C.S. § 3310. The department  
23 shall suspend the operating privilege of any driver for six  
24 months upon receiving a certified record of a consent decree  
25 granted under 42 Pa.C.S. Ch. 63 (relating to juvenile  
26 matters) based on section 3731 [or], 3733 or 18 Pa.C.S. §  
27 3310.

28 Section 4. This act shall take effect immediately.