

**ASSEMBLY BILL**

**No. 587**

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**Introduced by Assembly Member Cook  
(Coauthor: Assembly Member Tom Berryhill)**

February 25, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 587, as introduced, Cook. Vandalism: gang-related graffiti.

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 requires the court, when appropriate and feasible, 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 provide that if the defacement, damage, or destruction is determined by the finder of fact to further criminal gang activity, the act of vandalism is punishable by imprisonment in a state prison or in the county jail not exceeding one year, or by a fine of not more than \$10,000, or by both that fine and imprisonment. The bill would also authorize a court to grant probation and, as a condition of probation, order the defendant to participate in a local intervention program and also order gang terms. 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:  $\frac{2}{3}$ . 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.

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

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

*(d) If the defacement, damage, or destruction is determined by the finder of fact to further criminal gang activity pursuant to Section 186.22, the act of vandalism is punishable by imprisonment in a state prison or in the county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment. Upon conviction of any person for acts of vandalism under this subdivision, if the court grants probation for the defendant, it may, as a condition of probation, order the defendant to participate in a local community prevention program such as graffiti abatement or a gang prevention mentoring program, and may also order appropriate gang association terms and conditions.*

~~(d)~~

(e) 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.

~~(e)~~

1 (f) As used in this section, the term “graffiti or other inscribed  
2 material” includes any unauthorized inscription, word, figure,  
3 mark, or design, that is written, marked, etched, scratched, drawn,  
4 or painted on real or personal property.

5 ~~(f)~~

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

9 ~~(g)~~

10 (h) This section shall become operative on January 1, 2002.

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