

HOUSE BILL 737

E1, E2
HB 25/12 – JUD

3lr1425

By: **Delegates Olszewski, Clippinger, Arora, Barnes, Bromwell, Cardin, Cluster, DeBoy, Elliott, Kach, Kaiser, Krebs, McComas, McDermott, Mitchell, Pendergrass, Reznik, Stocksdales, and Valderrama**

Introduced and read first time: February 6, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Malicious Destruction of Property by Graffiti – Penalties**

3 FOR the purpose of altering the requirement that a court order a person convicted of
4 causing malicious destruction of property by an act of graffiti to either pay
5 restitution or perform community service or both so as to require that the court
6 order both the payment of restitution and community service; and generally
7 relating to malicious destruction of property by an act of graffiti.

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Law
10 Section 6–301
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2012 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Criminal Law**

16 6–301.

17 (a) A person may not willfully and maliciously destroy, injure, or deface the
18 real or personal property of another.

19 (b) A person who, in violation of this section, causes damage of at least \$500
20 to the property is guilty of a misdemeanor and on conviction is subject to
21 imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) A person who, in violation of this section, causes damage of less than
2 \$500 to the property is guilty of a misdemeanor and on conviction is subject to
3 imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

4 (d) (1) For purposes of this subsection, an act of "graffiti" means a
5 permanent drawing, permanent painting, or a permanent mark or inscription on the
6 property of another without the permission of the owner of the property.

7 (2) In addition to the penalties set forth in subsections (b) and (c) of
8 this section, the court shall order a person convicted of causing malicious destruction
9 by an act of graffiti to pay restitution [or] AND perform community service [or both].

10 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
11 order of restitution under this subsection.

12 (e) (1) Except as provided in paragraph (2) of this subsection, to
13 determine a penalty, the court may consider as one crime the aggregate value of
14 damage to each property resulting from one scheme or continuing course of conduct.

15 (2) If separate acts resulting in damage to the properties of one or
16 more owners are set forth by separate counts in one or more charging documents, the
17 separate counts may not be merged for sentencing.

18 (f) (1) The value of damage is not a substantive element of a crime under
19 this section and need not be stated in the charging document.

20 (2) The value of damage shall be based on the evidence and that value
21 shall be applied for the purpose of imposing the penalties established in this section.

22 (3) If it cannot be determined from the evidence whether the value of
23 the damage to the property is more or less than \$500, the value is deemed to be less
24 than \$500.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2013.