

SENATE BILL REPORT

SB 5502

As of January 25, 2022

Title: An act relating to requiring the removal of graffiti on department of transportation property.

Brief Description: Requiring the removal of graffiti on department of transportation property.

Sponsors: Senators Fortunato, McCune, Padden, Wagoner, Wilson, J. and Wilson, L..

Brief History:

Committee Activity: Law & Justice: 1/25/22.

Brief Summary of Bill

- Imposes restitution of graffiti removal on property owned by the Department of Transportation for a mandatory 30-day period for convictions of malicious mischief in the third degree or criminal street gang tagging and graffiti.
- Imposes restitution consecutively to any other restitution imposed by the court.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: Malicious Mischief in the Third Degree. A person commits the crime of malicious mischief in the third degree when they knowingly and maliciously cause physical damage to the property of another, or writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person. Malicious mischief in the third degree is a gross misdemeanor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Criminal Street Gang Tagging and Graffiti. A person commits the crime of criminal street gang tagging and graffiti when they commit malicious mischief in the third degree, and:

- have multiple current convictions of malicious mischief in the third degree for graffiti, or;
- have previously been convicted for malicious mischief in the third degree for graffiti or a comparable municipal offense, and;
- the current offense is a criminal street gang related offense.

Criminal street gang tagging and graffiti is a gross misdemeanor.

For adults, gross misdemeanor convictions are punished by imprisonment in a county jail for a maximum term up to 364 days, or by a fine of not more than \$5,000, or both.

For juveniles, gross misdemeanor convictions for malicious mischief in the third degree is governed by local sanctions. Local sanctions means one or more of the following:

- 0 to 30 days of confinement;
- 0 to 12 months of community supervision;
- 0 to 150 hours of community restitution; or
- \$0 to \$500 fine.

Summary of Bill: When any person is found guilty of malicious mischief in the third degree or guilty of criminal street gang tagging and graffiti committed against property owned by the Department of Transportation, the court must order a mandatory 30-day period of community restitution to require the removal of graffiti from the building, structure, or property where the offense was committed, unless the court finds that such an order is not practical. The community restitution must be imposed consecutively to any other community restitution the court imposes for the offense.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We have to do something about the defacing of our signs, bridges, and walls. People climb on signs over the highway to deface them. It is out of control. There needs to be a disincentive or community service to remove the graffiti.

OTHER: The Department of Transportation agrees graffiti is a issue on DOT property. This bill introduces significant safety and liability risk for individuals performing the work, our crews, and the agency. Locations along the DOT right of way are not a safe place for

the public. DOT staff have extensive safety training to include the use of specialized equipment. As an example, much of the graffiti on structures such as retaining walls and bridges are cleaned utilizing bucket trucks or under bridge inspection trucks. It is not feasible or safe to have non-DOT staff participating in graffiti removal.

Persons Testifying: PRO: Senator Phil Fortunato, Prime Sponsor.

OTHER: Pasco Bakotich, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying: No one.