

By: Scott (80th)

To: Judiciary B;  
Transportation

HOUSE BILL NO. 1122

1 AN ACT TO PROHIBIT DEFACING PROPERTY WITH GRAFFITI; TO  
2 PRESCRIBE PENALTIES FOR VIOLATIONS OF THIS ACT; TO AMEND SECTIONS  
3 63-1-9, 63-1-51, 63-1-55, 97-7-9 AND 97-17-39, MISSISSIPPI CODE OF  
4 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. (1) Any person who defaces with graffiti or  
8 other inscribed material any real or personal property not his or  
9 her own, including property owned by the state or any political  
10 subdivision, when the amount of the defacement, damage, or  
11 destruction is less than Two Hundred Fifty Dollars (\$250.00), is  
12 guilty of an infraction, punishable by a fine not to exceed Five  
13 Hundred Dollars (\$500.00).

14 In addition to the penalty set forth in this section, the  
15 court shall order the defendant to perform a minimum of eight (8)  
16 hours a week of community service for a period not to exceed six  
17 (6) months during a time other than during his or her hours of  
18 school attendance or employment and the court shall suspend such  
19 person's driver's license for a period of one (1) year or if such  
20 person does not have a driver's license, the court shall issue an  
21 order to deny a driver's license to such person for one (1) year  
22 after conviction under this section.

23 (2) Upon conviction of any person under subsection (1), the  
24 court, in addition to any punishment imposed pursuant to this  
25 section, at the victim's option, shall order the defendant to  
26 perform the necessary labor and make restitution to clean up,  
27 repair, or replace the property damaged by that person.

28           (3) If a minor is personally unable to pay any fine levied  
29 for violating this section, the parent or legal guardian of the  
30 minor shall be liable for payment of the fine.

31           Any community service which is required pursuant to this  
32 section of a person under the age of eighteen (18) years may be  
33 performed in the presence, and under the direct supervision, of  
34 the person's parent or legal guardian.

35           (4) As used in this section, the term "graffiti or other  
36 inscribed material" includes any unauthorized inscription, word,  
37 figure, mark, or design that is written, marked, etched,  
38 scratched, drawn, or painted on real or personal property.

39           SECTION 2. Section 63-1-9, Mississippi Code of 1972, is  
40 amended as follows:

41           63-1-9. (1) No license shall be issued pursuant to this  
42 article:

43           (a) To any person under the age of sixteen (16) years  
44 except as provided in subsection (2) of this section.

45           (b) To any person whose license to operate a motor  
46 vehicle on the highways of Mississippi has been previously revoked  
47 or suspended by this state or any other state and/or territory of  
48 the United States or the District of Columbia, and such revocation  
49 or suspension period has not expired.

50           (c) To any person who is an habitual drunkard or who is  
51 addicted to the use of other narcotic drugs.

52           (d) To any person who would not be able by reason of  
53 physical or mental disability, in the opinion of the commissioner  
54 or other person authorized to grant an operator's license, to  
55 operate a motor vehicle on the highways with safety. However,  
56 persons who have one (1) arm or leg, or have arms or legs  
57 deformed, and have their car provided with mechanical devices  
58 whereby they are able to drive in a safe manner over the highways,  
59 if otherwise qualified, shall receive an operator's license the  
60 same as other persons. Moreover, deafness shall not be a bar to

61 obtaining a license.

62 (e) To any person who is under the age of seventeen  
63 (17) years to drive any motor vehicle while in use as a school bus  
64 for the transportation of pupils to or from school, or to drive  
65 any motor vehicle while in use as a public or common carrier of  
66 persons or property.

67 (f) To any person as an operator who has previously  
68 been adjudged to be afflicted with and suffering from any mental  
69 disability and who has not at time of application been restored to  
70 mental competency.

71 (g) To any unmarried person under the age of eighteen  
72 (18) years who does not at the time of application present a  
73 diploma or other certificate of high school graduation or a  
74 general education development certificate issued to the person in  
75 this state or any other state, or documentation that the person:

76 (i) Is enrolled and making satisfactory progress  
77 in a course leading to a general education development  
78 certificate;

79 (ii) Is enrolled in school in this state or any  
80 other state;

81 (iii) Is enrolled in a "nonpublic school," as such  
82 term is defined in Section 37-13-91(2)(i); or

83 (iv) Is unable to attend any school program due to  
84 circumstances deemed acceptable as set out in Section 63-1-10.

85 (h) To any person under the age of eighteen (18) years  
86 who has been convicted under Section 63-11-30.

87 (i) For one (1) year to any person who does not have a  
88 driver's license who has been convicted under Section 1 of this  
89 act.

90 (2) Upon meeting all other state requirements for licensure,  
91 a minor who is a resident of this state and who is fifteen (15)  
92 years of age may apply for and be issued a driver's license if:

93 (a) He presents to the Department of Public Safety, at

94 the time of application, documentation satisfactory to the  
95 Commissioner of Public Safety that the minor resides with a  
96 physically impaired parent whose physical impairment prevents the  
97 parent from securing a driver's license; or

98 (b) He presents to the Department of Public Safety, at  
99 the time of application, on a form prepared by and approved by the  
100 Commissioner of Public Safety, an affidavit signed by a parent or  
101 guardian of the minor and by the employer of the minor, with each  
102 signature being witnessed and acknowledged by a notary public or  
103 other person authorized under the laws of this state to administer  
104 oaths, stating that the minor is gainfully employed and, in order  
105 to avoid a severe hardship, needs to be authorized to drive a  
106 vehicle in order to retain his employment.

107 (3) A driver's license issued under paragraph (2)(b) of this  
108 section shall be restricted for use between the hours of 6:00 a.m.  
109 and 10:00 p.m. It shall be unlawful for any minor who is issued a  
110 driver's license under paragraph (2)(b) of this section to operate  
111 a motor vehicle between the hours of 10:00 p.m. and 6:00 a.m.

112 SECTION 3. Section 63-1-51, Mississippi Code of 1972, is  
113 amended as follows:

114 63-1-51. (1) It shall be the duty of the trial judge, upon  
115 conviction of any person holding a license issued pursuant to this  
116 article where the penalty for a traffic violation is as much as  
117 Ten Dollars (\$10.00), to mail a copy of abstract of the court  
118 record or provide an electronically or computer generated copy of  
119 abstract of the court record immediately to the commissioner at  
120 Jackson, Mississippi, showing the date of conviction, penalty,  
121 etc., so that a record of same may be made by the Department of  
122 Public Safety. The commissioner shall forthwith revoke the  
123 license of any person for a period of one (1) year upon receiving  
124 a duly certified record of each person's convictions of any of the  
125 following offenses when such conviction has become final:

126 (a) Manslaughter or negligent homicide resulting from

127 the operation of a motor vehicle;

128 (b) Any felony in the commission of which a motor  
129 vehicle is used;

130 (c) Failure to stop and render aid as required under  
131 the laws of this state in event of a motor vehicle accident  
132 resulting in the death or personal injury of another;

133 (d) Perjury or the willful making of a false affidavit  
134 or statement under oath to the department under this article or  
135 under any other law relating to the ownership or operation of  
136 motor vehicles;

137 (e) Conviction, or forfeiture of bail not vacated, upon  
138 three (3) charges of reckless driving committed within a period of  
139 twelve (12) months;

140 (f) Contempt for failure to pay a fine or fee or to  
141 respond to a summons or citation pursuant to a charge of a  
142 violation of this title;

143 (g) A violation of Section 1 of this act.

144 (2) The commissioner shall revoke the license issued  
145 pursuant to this article of any person convicted of negligent  
146 homicide, in addition to any penalty now provided by law.

147 (3) In addition to the reasons specified in this section,  
148 the commissioner shall be authorized to suspend the license issued  
149 to any person pursuant to this article for being out of compliance  
150 with an order for support, as defined in Section 93-11-153. The  
151 procedure for suspension of a license for being out of compliance  
152 with an order for support, and the procedure for the reissuance or  
153 reinstatement of a license suspended for that purpose, and the  
154 payment of any fees for the reissuance or reinstatement of a  
155 license suspended for that purpose, shall be governed by Section  
156 93-11-157 or 93-11-163, as the case may be. If there is any  
157 conflict between any provision of Section 93-11-157 or 93-11-163  
158 and any provision of this article, the provisions of Section  
159 93-11-157 or 93-11-163, as the case may be, shall control.

160 SECTION 4. Section 63-1-55, Mississippi Code of 1972, is  
161 amended as follows:

162 63-1-55. A trial judge, in his discretion, if the person so  
163 convicted or who has entered a plea of guilty for any traffic  
164 violation, except the offenses enumerated in paragraphs (a)  
165 through (e) of subsection (1) of Section 63-1-51 and violations of  
166 the Implied Consent Law and the Uniform Controlled Substances Law,  
167 is a minor and dependent upon and subject to the care, custody and  
168 control of his parents or guardian, may, in lieu of the penalties  
169 otherwise provided by law and the provision of said section,  
170 suspend such minor's driver's license by taking and keeping same  
171 in custody of the court for a period of time not to exceed ninety  
172 (90) days. The judge so ordering such suspension shall enter upon  
173 his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR \_\_\_\_\_ DAYS  
174 IN LIEU OF CONVICTION" and such action by the trial judge shall  
175 not constitute a conviction. The trial judge also may require the  
176 minor to successfully complete a defensive driving course approved  
177 by the judge as a condition of the suspension. Costs of court and  
178 penalty assessment for driver education and training program may  
179 be imposed in such actions within the discretion of the court.  
180 Should a minor appeal, in the time and manner as by law provided,  
181 the decision whereby his license is suspended, the trial judge  
182 shall then return said license to the minor and impose the fines  
183 and/or penalties that he would have otherwise imposed and same  
184 shall constitute a conviction.

185 The judge shall suspend a minor's driver's license for one  
186 (1) year for a conviction under Section 1 of this act.

187 SECTION 5. Section 97-7-9, Mississippi Code of 1972, is  
188 amended as follows:

189 97-7-9. If any person shall, by any means whatsoever,  
190 wilfully injure or destroy any of the works, materials, furniture,  
191 or ornaments of the capitol, or any of the buildings or monuments  
192 on the grounds belonging thereto, or shall wilfully deface any of

193 the walls thereof, or shall write or make any drawing or  
194 characters thereon with pencil-mark, or otherwise, or do any  
195 indecent act, either on or to said walls, or within the same, or  
196 shall wilfully deface or injure the trees, fences, pavement, or  
197 soil on said grounds, such person, on conviction, shall be  
198 punished by a fine not exceeding Five Hundred Dollars (\$500.00),  
199 or imprisonment in the county jail not more than six (6) months,  
200 or both, or punished as provided in Section 1 of this act for  
201 graffiti.

202 SECTION 6. Section 97-17-39, Mississippi Code of 1972, is  
203 amended as follows:

204 97-17-39. If any person, by any means whatever, shall  
205 wilfully or mischievously injure or destroy any of the burial  
206 vaults, urns, memorials, vases, foundations, injure or destroy any  
207 of the work, materials, or furniture of any courthouse or jail, or  
208 other public building, or schoolhouse or church, or deface any of  
209 the walls or other parts thereof, or shall write, or make any  
210 drawings or character, or do any other act, either on or in said  
211 building or the walls thereof, or shall deface or injure the  
212 trees, fences, pavements, or soil, on the grounds belonging  
213 thereto, or an ornamental or shade tree on any public road or  
214 street leading thereto, such person, upon conviction, for such  
215 offense, shall be punished as follows:

216 (a) If the damage caused by the destruction or  
217 defacement of such property has a value of less than Three Hundred  
218 Dollars (\$300.00), any person who is convicted of such offense  
219 shall be fined not more than One Thousand Dollars (\$1,000.00) or  
220 be imprisoned in the county jail for not more than one (1) year,  
221 or both.

222 (b) If the damage caused by the destruction or  
223 defacement of such property has a value equal to or exceeding  
224 Three Hundred Dollars (\$300.00), any person who is convicted of  
225 such offense shall be fined not more than Five Thousand Dollars

226 (\$5,000.00) or be imprisoned in the State Penitentiary for up to  
227 five (5) years, or both.

228 (c) If the damage is graffiti, such person shall be  
229 punished as provided in Section 1 of this act.

230 SECTION 7. This act shall take effect and be in force from  
231 and after July 1, 2000.