

(1) FOR PURPOSES OF THIS SUBSECTION, AN ACT OF "GRAFFITI" MEANS A PERMANENT DRAWING, PERMANENT PAINTING, OR A PERMANENT MARK OR INSCRIPTION ON THE PROPERTY OF ANOTHER WITHOUT THE PERMISSION OF THE OWNER OF THE PROPERTY.

(2) IN ADDITION TO THE PENALTIES SET FORTH IN SUBSECTIONS (B) AND (C) OF THIS SECTION, THE COURT SHALL ORDER A PERSON CONVICTED OF CAUSING MALICIOUS DESTRUCTION BY AN ACT OF GRAFFITI TO PAY RESTITUTION OR PERFORM COMMUNITY SERVICE OR BOTH.

(3) TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE APPLIES TO AN ORDER OF RESTITUTION UNDER THIS SUBSECTION.

(E) AGGREGATION OF DAMAGES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, TO DETERMINE A PENALTY, THE COURT MAY CONSIDER AS ONE CRIME THE AGGREGATE VALUE OF DAMAGE TO EACH PROPERTY RESULTING FROM ONE SCHEME OR CONTINUING COURSE OF CONDUCT.

(2) IF SEPARATE ACTS RESULTING IN DAMAGE TO THE PROPERTIES OF ONE OR MORE OWNERS ARE SET FORTH BY SEPARATE COUNTS IN ONE OR MORE CHARGING DOCUMENTS, THE SEPARATE COUNTS MAY NOT BE MERGED FOR SENTENCING.

(F) VALUE OF DAMAGES.

(1) THE VALUE OF DAMAGE IS NOT A SUBSTANTIVE ELEMENT OF A CRIME UNDER THIS SECTION AND NEED NOT BE STATED IN THE CHARGING DOCUMENT.

(2) THE VALUE OF DAMAGE SHALL BE BASED ON THE EVIDENCE AND THAT VALUE SHALL BE APPLIED FOR THE PURPOSE OF IMPOSING THE PENALTIES ESTABLISHED IN THIS SECTION.

(3) IF IT CANNOT BE DETERMINED FROM THE EVIDENCE WHETHER THE VALUE OF THE DAMAGE TO THE PROPERTY IS MORE OR LESS THAN \$500, THE VALUE IS DEEMED TO BE LESS THAN \$500.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 111.

In subsection (a) of this section, the former reference to "molest[ing]" property is deleted in light of the references to "injur[ing]" and "defac[ing]" the property.

In subsections (b) and (c) of this section, the former references to property "defaced, destroyed, injured, or molested" are deleted as included in the references to "caus[ing] damage" "in violation of this section".

In subsection (d)(1) and (3) of this section, the references to this "subsection" are substituted for the former references to this "section", for clarity and to correct a drafting error.