



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0165

Introduced 1/31/2007, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

720 ILCS 5/21-1

from Ch. 38, par. 21-1

720 ILCS 5/21-1.3

Amends the Criminal Code of 1961. In provisions making it an offense to knowingly damage property of another, knowingly start a fire on the land of another, knowingly deposit a stink bomb or offensive smelling compound on the land or in the building of another, or knowingly deface the property of another, deletes a requirement that the act be performed without the other person's consent and adds an affirmative defense that the owner of the property or land consented to the damage. In provisions making it an offense to knowingly injure a domestic animal of another, deletes a requirement that the act be performed without the other person's consent.

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1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 21-1 and 21-1.3 as follows:

6 (720 ILCS 5/21-1) (from Ch. 38, par. 21-1)

7 Sec. 21-1. Criminal damage to property.

8 (1) A person commits an illegal act when he:

9 (a) knowingly damages any property of another ~~without~~
10 ~~his consent~~; or

11 (b) recklessly by means of fire or explosive damages
12 property of another; or

13 (c) knowingly starts a fire on the land of another
14 ~~without his consent~~; or

15 (d) knowingly injures a domestic animal of another
16 ~~without his consent~~; or

17 (e) knowingly deposits on the land or in the building
18 of another, ~~without his consent~~, any stink bomb or any
19 offensive smelling compound and thereby intends to
20 interfere with the use by another of the land or building;
21 or

22 (f) damages any property, other than as described in
23 subsection (b) of Section 20-1, with intent to defraud an

1 insurer; or

2 (g) knowingly shoots a firearm at any portion of a
3 railroad train.

4 When the charge of criminal damage to property exceeding a
5 specified value is brought, the extent of the damage is an
6 element of the offense to be resolved by the trier of fact as
7 either exceeding or not exceeding the specified value.

8 It is an affirmative defense to a violation of item (a),
9 (c), or (e) of this Section that the owner of the property or
10 land damaged consented to such damage.

11 (2) The acts described in items (a), (b), (c), (e), and (f)
12 are Class A misdemeanors if the damage to property does not
13 exceed \$300. The acts described in items (a), (b), (c), (e),
14 and (f) are Class 4 felonies if the damage to property does not
15 exceed \$300 if the damage occurs to property of a school or
16 place of worship or to farm equipment or immovable items of
17 agricultural production, including but not limited to grain
18 elevators, grain bins, and barns. The act described in item (d)
19 is a Class 4 felony if the damage to property does not exceed
20 \$10,000. The act described in item (g) is a Class 4 felony. The
21 acts described in items (a), (b), (c), (e), and (f) are Class 4
22 felonies if the damage to property exceeds \$300 but does not
23 exceed \$10,000. The acts described in items (a) through (f) are
24 Class 3 felonies if the damage to property exceeds \$300 but
25 does not exceed \$10,000 if the damage occurs to property of a
26 school or place of worship or to farm equipment or immovable

1 items of agricultural production, including but not limited to
2 grain elevators, grain bins, and barns. The acts described in
3 items (a) through (f) are Class 3 felonies if the damage to
4 property exceeds \$10,000 but does not exceed \$100,000. The acts
5 described in items (a) through (f) are Class 2 felonies if the
6 damage to property exceeds \$10,000 but does not exceed \$100,000
7 if the damage occurs to property of a school or place of
8 worship or to farm equipment or immovable items of agricultural
9 production, including but not limited to grain elevators, grain
10 bins, and barns. The acts described in items (a) through (f)
11 are Class 2 felonies if the damage to property exceeds
12 \$100,000. The acts described in items (a) through (f) are Class
13 1 felonies if the damage to property exceeds \$100,000 and the
14 damage occurs to property of a school or place of worship or to
15 farm equipment or immovable items of agricultural production,
16 including but not limited to grain elevators, grain bins, and
17 barns. If the damage to property exceeds \$10,000, the court
18 shall impose upon the offender a fine equal to the value of the
19 damages to the property.

20 For the purposes of this subsection (2), "farm equipment"
21 means machinery or other equipment used in farming.

22 (3) In addition to any other sentence that may be imposed,
23 a court shall order any person convicted of criminal damage to
24 property to perform community service for not less than 30 and
25 not more than 120 hours, if community service is available in
26 the jurisdiction and is funded and approved by the county board

1 of the county where the offense was committed. In addition,
2 whenever any person is placed on supervision for an alleged
3 offense under this Section, the supervision shall be
4 conditioned upon the performance of the community service.

5 This subsection does not apply when the court imposes a
6 sentence of incarceration.

7 (Source: P.A. 94-509, eff. 8-9-05.)

8 (720 ILCS 5/21-1.3)

9 Sec. 21-1.3. Criminal defacement of property.

10 (a) A person commits criminal defacement of property when
11 the person knowingly damages the property of another ~~without~~
12 ~~his or her consent~~ by defacing, deforming, or otherwise
13 damaging the property by the use of paint or any other similar
14 substance, or by the use of a writing instrument, etching tool,
15 or any other similar device. It is an affirmative defense to a
16 violation of this Section that the owner of the property
17 damaged consented to such damage.

18 (b) Criminal defacement of property is a Class A
19 misdemeanor for a first offense if the damage to the property
20 does not exceed \$300. Criminal defacement of property is a
21 Class 4 felony if the damage to property does not exceed \$300
22 and the property damaged is a school building or place of
23 worship. Criminal defacement of property is a Class 4 felony
24 for a second or subsequent conviction or if the damage to the
25 property exceeds \$300. Criminal defacement of property is a

1 Class 3 felony if the damage to property exceeds \$300 and the
2 property damaged is a school building or place of worship. In
3 addition to any other sentence that may be imposed for a
4 violation of this Section that is chargeable as a Class 3 or
5 Class 4 felony, a person convicted of criminal defacement of
6 property shall be subject to a mandatory minimum fine of \$500
7 plus the actual costs incurred by the property owner or the
8 unit of government to abate, remediate, repair, or remove the
9 effect of the damage to the property. To the extent permitted
10 by law, reimbursement for the costs of abatement, remediation,
11 repair, or removal shall be payable to the person who incurred
12 the costs. In addition to any other sentence that may be
13 imposed, a court shall order any person convicted of criminal
14 defacement of property to perform community service for not
15 less than 30 and not more than 120 hours, if community service
16 is available in the jurisdiction. The community service shall
17 include, but need not be limited to, the cleanup and repair of
18 the damage to property that was caused by the offense, or
19 similar damage to property located in the municipality or
20 county in which the offense occurred. If the property damaged
21 is a school building, the community service may include
22 cleanup, removal, or painting over the defacement. In addition,
23 whenever any person is placed on supervision for an alleged
24 offense under this Section, the supervision shall be
25 conditioned upon the performance of the community service.

26 (Source: P.A. 90-685, eff. 1-1-99; 91-360, eff. 7-29-99;

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1 91-931, eff. 6-1-01.)