

The House Committee on State Institutions & Property offers the following substitute to HB 144:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,  
2 so as to provide for use of inmate labor to remove certain graffiti from private property as  
3 a form of compensation to innocent victims of criminal trespass or criminal damage to  
4 property in the second degree; to expressly provide that sovereign immunity is not waived  
5 relative thereto; to define a term; to provide legislative findings and declarations; to amend  
6 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to  
7 change certain provisions relating to use of inmates for private gain; to change certain  
8 provisions relating to hiring out of inmates, sales of products produced by inmates,  
9 disposition of proceeds, and payments to inmates for services; to repeal conflicting laws; and  
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
14 amended by inserting a new chapter to read as follows:

15 style="text-align:center">"CHAPTER 15A

16 17-15A-1.

17 The provisions of this chapter are enacted pursuant Article III, Section VI, Paragraph VI(f)  
18 of the Constitution and are in addition to those provisions for compensation of innocent  
19 victims of other crimes under Chapter 15 of this title.

20 17-5A-2.

21 As used in this chapter, the term 'graffiti' means any inscriptions, words, figures, paintings,  
22 or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted,  
23 or engraved on or otherwise affixed to any surface of real property or improvements

1 thereon without prior authorization of the owner or occupant of the property by means of  
2 any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick,  
3 etching equipment, brush, or other device capable of scarring or leaving a visible mark on  
4 any surface.

5 17-15A-3.

6 The General Assembly finds and declares that:

7 (1) Criminal street gang activity is a serious and continuing public safety concern;

8 (2) Criminal trespass and criminal damage to property in the second degree caused by  
9 graffiti being placed unlawfully upon private property are crimes frequently associated  
10 with criminal street gang activity; and

11 (3) It is in the public interest, not only in the pursuit of justice but also as a means of  
12 combating such criminal street gang activity and of contributing to the general public  
13 welfare by improving the esthetics of public views, to compensate as provided in this  
14 chapter those private property owners who are the innocent victims of such criminal  
15 trespass or criminal damage to property in the second degree by using inmate labor to  
16 remove or obliterate graffiti unlawfully placed on private properties when such graffiti  
17 is visible from public roads or other public property.

18 17-15A-4.

19 In order to provide a form of compensation by the state to innocent victims of criminal  
20 trespass in violation of Code Section 16-7-21 or criminal damage to property in the second  
21 degree in violation of Code Section 16-7-23, either of which crime involved the unlawful  
22 placement of graffiti upon private property by a person who was not the owner of such  
23 property, the Board of Corrections or any political subdivision of this state may authorize  
24 the use of labor by inmates from any penal institution or jail under its authority to remove  
25 or obliterate such unlawfully placed graffiti when such graffiti is visible from any public  
26 road or other public property. Any such authorization and related supervision of inmates  
27 shall be a discretionary function within the meaning of paragraph (2) of Code Section  
28 50-21-24 for purposes of sovereign immunity, and the sovereign immunity of neither the  
29 state nor any political subdivision thereof is waived for any loss arising out of such  
30 authorization or related supervision of inmates. The Board of Corrections shall provide  
31 rules and regulations governing such use of labor by inmates from institutions under its  
32 jurisdiction."

