

House Bill 144 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Marin of the 66<sup>th</sup>, Floyd of the 69<sup>th</sup>, Post 2, Thompson of the 69<sup>th</sup>, Post 1, Coan of the 67<sup>th</sup>, Post 1, Casas of the 68<sup>th</sup>, and others

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 provide that local government graffiti removal programs shall not charge  
6 certain fees; to define a term; to provide legislative findings and declarations; to amend Title  
7 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to change  
8 certain provisions relating to use of inmates for private gain; to change certain provisions  
9 relating to hiring out of inmates, sales of products produced by inmates, disposition of  
10 proceeds, and payments to inmates for services; to repeal conflicting laws; and for other  
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

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

17 17-15A-1.

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

21 17-5A-2.

22 As used in this chapter, the term 'graffiti' means any inscriptions, words, figures, paintings,  
23 or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted,  
24 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, etching  
3 equipment, brush, or other device capable of scarring or leaving a visible mark on any  
4 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 (a) 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  
21 second degree in violation of Code Section 16-7-23, either of which crime involved the  
22 unlawful placement of graffiti upon private property by a person who was not the owner  
23 of such property, the Board of Corrections or any political subdivision of this state may  
24 authorize the use of labor by inmates from any penal institution or jail under its authority  
25 to remove or obliterate such unlawfully placed graffiti when such graffiti is visible from  
26 any public road or other public property. Any such authorization and related supervision  
27 of inmates shall be a discretionary function within the meaning of paragraph (2) of Code  
28 Section 50-21-24 for purposes of sovereign immunity, and the sovereign immunity of  
29 neither the state nor any political subdivision thereof is waived for any loss arising out  
30 of such authorization or related supervision of inmates. The Board of Corrections shall  
31 provide rules and regulations governing such use of labor by inmates from institutions  
32 under its jurisdiction.

33 (b) No graffiti removal program operated by any political subdivision of this state shall  
34 charge any fee to any property owner or operator for removal of graffiti from such  
35 property."

