

**PARENTAL RESPONSIBILITY FOR
JUVENILE CRIMINAL GANG OFFENSE
COSTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon J. Greiner

House Sponsor: Richard A. Greenwood

LONG TITLE

General Description:

This bill modifies the Juvenile Court Act to increase a parent's financial responsibility for a minor's criminal street gang offense costs.

Highlighted Provisions:

This bill:

► requires a parent or guardian who has legal custody of a minor to be liable for damages, including graffiti damages, sustained to property not to exceed \$5,000 in costs when the minor participates in criminal activity that causes property damage and is done:

- for the benefit of, at the direction of, or in association with any criminal street gang; or
- to gain recognition, acceptance, membership, or increased status with a criminal street gang ~~H~~ → [~~S~~ → ; and

~~→ exempts state agencies from liability if the minor is in the custody of the state at the time of the offense ← S] ← H .~~

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

S.B. 118



28 AMENDS:

29 **78A-6-1113**, as renumbered and amended by Laws of Utah 2008, Chapter 3



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **78A-6-1113** is amended to read:

33 **78A-6-1113. Property damage caused by a minor -- Liability of parent or legal**
34 **guardian -- Criminal conviction or adjudication for criminal mischief or criminal**
35 **trespass not a prerequisite for civil action under chapter -- When parent or guardian not**
36 **liable.**

37 (1) The parent or legal guardian having legal custody of the minor is liable for damages
38 sustained to property not to exceed \$2,000 when:

39 (a) the minor intentionally damages, defaces, destroys, or takes the property of another;

40 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
41 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
42 moving or standing; or

43 (c) the minor intentionally and unlawfully tampers with the property of another and
44 thereby recklessly endangers human life or recklessly causes or threatens a substantial
45 interruption or impairment of any public utility service.

46 (2) The parent or legal guardian having legal custody of the minor is liable for damages
47 sustained to property not to exceed \$5,000 when the minor commits an offense under Section
48 (1):

49 (a) for the benefit of, at the direction of, or in association with any criminal street gang
50 as defined in Section 76-9-802; or

51 (b) to gain recognition, acceptance, membership, or increased status with a criminal
52 street gang.

53 [~~(2)~~ For purposes of this section, Subsection (1)(a) or (c)]

54 (3) As used in this section, property damage described under Subsection (1)(a) or (c),
55 or Subsection (2) includes graffiti, as defined in Section 76-6-107.

56 [~~(3)~~] (4) A court may waive part or all of the liability for damages ~~§~~ → **[described in**
57 **Subsection (1)] under this section ← §** by the parent or legal guardian if the offender is adjudicated
57a in the juvenile court
58 under Section 78A-6-117 only upon stating on the record that the court finds:

59 (a) ~~[upon a finding of]~~ good cause; or
 60 (b) ~~[if]~~ the parent or legal guardian:
 61 (i) made a reasonable effort to restrain the wrongful conduct; and
 62 (ii) reported ~~[it]~~ the conduct to the property owner involved or the law enforcement
 63 agency having primary jurisdiction after ~~[he]~~ the parent or guardian knew of the minor's
 64 unlawful act. ~~[No]~~

65 (5) A report is not required under ~~[this section]~~ Subsection (4)(b) from a parent or legal
 66 guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on
 67 behalf of the property owner involved.

68 ~~[(4)]~~ (6) A conviction for criminal mischief under Section 76-6-106, criminal trespass
 69 under Section 76-6-206, or an adjudication under Section 78A-6-117 is not a condition
 70 precedent to a civil action authorized under Subsection (1) or (2).

71 ~~[(5)]~~ (7) A parent or guardian is not liable under Subsection (1) ~~§~~ or (2) ~~←§~~ if the parent or
 72 guardian made a reasonable effort to supervise and direct their minor child, or, in the event the
 73 parent or guardian knew in advance of the possible taking, injury, or destruction by their minor
 74 child, made a reasonable effort to restrain the child.

74a ~~§~~ ~~←§~~ (8) The state and its agencies are not liable under Subsection (1) or (2) if a state agency
 74b has legal or protective custody of the minor or has guardianship of the minor at the time of the
 74c minor's conduct in violation of Subsection (1) or (2). ~~←§~~ ~~←§~~

Legislative Review Note
 as of 1-23-09 1:29 PM

Office of Legislative Research and General Counsel

S.B. 118 - Parental Responsibility for Juvenile Criminal Gang Offense Costs

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Parents or legal guardians of minors may be held financially responsible for up to \$5,000 for criminal property damage caused by them.
