

1                                   **PARENTAL RESPONSIBILITY FOR**  
2                                   **JUVENILE CRIMINAL GANG OFFENSE**  
3                                   **COSTS**

4                                   2009 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Jon J. Greiner**

7                                   House Sponsor: Richard A. Greenwood

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9                                   **LONG TITLE**

10                                  **General Description:**

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

13                                  **Highlighted Provisions:**

14                                  This bill:

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

19                                  • for the benefit of, at the direction of, or in association with any criminal street  
20                                  gang; or

21                                  • to gain recognition, acceptance, membership, or increased status with a  
22                                  criminal street gang.

23                                  **Monies Appropriated in this Bill:**

24                                  None

25                                  **Other Special Clauses:**

26                                  None

27                                  **Utah Code Sections Affected:**

28                                  AMENDS:

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

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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  
 38 damages sustained to property not to exceed \$2,000 when:

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

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

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

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

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

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

54 [~~2~~] For purposes of this section, ~~Subsection (1)(a) or (c)]~~

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

57 [~~3~~] (4) A court may waive part or all of the liability for damages under this section

58 by the parent or legal guardian if the offender is adjudicated in the juvenile court under  
59 Section 78A-6-117 only upon stating on the record that the court finds:

60 (a) [~~upon a finding of~~] good cause; or

61 (b) [~~if~~] the parent or legal guardian:

62 (i) made a reasonable effort to restrain the wrongful conduct; and

63 (ii) reported [~~it~~] the conduct to the property owner involved or the law enforcement  
64 agency having primary jurisdiction after [~~he~~] the parent or guardian knew of the minor's  
65 unlawful act. [~~No~~]

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

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

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