

Effective 5/12/2015

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

- (1) The parent or legal guardian having legal custody of the minor is liable for damages sustained to property not to exceed \$2,000 when:
 - (a) the minor intentionally damages, defaces, destroys, or takes the property of another;
 - (b) the minor recklessly or willfully shoots or propels a missile, or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing; or
 - (c) the minor intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life or recklessly causes or threatens a substantial interruption or impairment of any public utility service.
- (2) The parent or legal guardian having legal custody of the minor is liable for damages sustained to property not to exceed \$5,000 when the minor commits an offense under Section (1):
 - (a) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or
 - (b) to gain recognition, acceptance, membership, or increased status with a criminal street gang.
- (3) The court may make an order for the restitution authorized in this section to be paid by the minor's parent or guardian as part of the minor's disposition order.
- (4) As used in this section, property damage described under Subsection (1)(a) or (c), or Subsection (2), includes graffiti, as defined in Section 76-6-107.
- (5) A court may waive part or all of the liability for damages under this section by the parent or legal guardian if the offender is adjudicated in the juvenile court under Section 78A-6-117 only upon stating on the record that the court finds:
 - (a) good cause; or
 - (b) the parent or legal guardian:
 - (i) made a reasonable effort to restrain the wrongful conduct; and
 - (ii) reported the conduct to the property owner involved or the law enforcement agency having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.
- (6) A report is not required under Subsection (5)(b) from a parent or legal guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the property owner involved.
- (7) A conviction for criminal mischief under Section 76-6-106, criminal trespass under Section 76-6-206, or an adjudication under Section 78A-6-117 is not a condition precedent to a civil action authorized under Subsection (1) or (2).
- (8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or guardian made a reasonable effort to supervise and direct their minor child, or, in the event the parent or guardian knew in advance of the possible taking, injury, or destruction by their minor child, made a reasonable effort to restrain the child.

Amended by Chapter 258, 2015 General Session