

**SUBJECT:** Graffiti eradication fee for juvenile offenders

**COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment

**VOTE:** 9 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna, Truitt  
0 nays

**WITNESSES:** For — Karen Landinger, El Paso District Attorney’s Office  
Against — None  
On — Robert Dawson

**BACKGROUND:** It is a criminal offense to use aerosol paint or indelible markers intentionally or knowingly to make markings on the tangible property of another without the owner’s consent. The punishment for the offense ranges from a Class B misdemeanor to a first-degree felony, depending on the value of loss to the property and on the type of property.

**DIGEST:** HB 1063 would require juvenile courts to order a child found guilty of a graffiti offense or the child’s parent or other adult responsible for the child to pay \$5 to the court as a graffiti eradication fee. The court would have to deposit the fee in the county’s graffiti eradication fund established under the Code of Criminal Procedure. The court could waive the fee if it found that a juvenile or the adult responsible for the child was unable to pay.  
HB 1063 would take effect September 1, 1999.

**SUPPORTERS SAY:** HB 1063 would fix an oversight in the 1997 graffiti law, which has been interpreted as not requiring juveniles who commit graffiti offenses to pay a \$5 eradication fee. The 1997 law established the offense of graffiti and required defendants convicted of this offense to pay a \$5 fee that the commissioners court can use to repair damage caused by graffiti, provide graffiti education and intervention programs, and offer public rewards to identify and catch graffiti offenders.

While some jurisdictions have charged juvenile offenders this fee, others have not. Some have interpreted the statutory language to exclude juvenile graffiti offenders because, under the terminology used in the juvenile justice system, “adjudication” and “disposition” describe what in adult criminal proceedings are called “trial” and “punishment.” HB 1063 would clear up confusion over the issue by placing the requirement that juvenile offenders pay the fee among the Family Code provisions governing juvenile judicial proceedings. The 75th Legislature clearly intended for the entire graffiti law — including the fee — to apply to juveniles. The 1997 law makes several references to children adjudicated for engaging in illegal graffiti and to the Family Code sections dealing with juvenile offenders.

The \$5 graffiti eradication fee would not be a burden for juvenile offenders. The court could waive this small amount if it found that a child or the adult responsible for the child was unable to pay.

**OPPONENTS  
SAY:**

The graffiti eradication fee should not apply to juvenile offenders, who are least likely to be able to pay yet another court-ordered fee. While the graffiti fee may seem small, court-ordered fees and payments can amount to a great deal when added together.