

FIRST REGULAR SESSION

HOUSE BILL NO. 510

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES OVERSCHMIDT AND GRIESHEIMER (Co-sponsors).

Read 1st time January 24, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1259L.011

AN ACT

To repeal sections 214.131, 537.523 and 574.085, RSMo 2000, relating to vandalism, and to enact in lieu thereof three new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 214.131, 537.523 and 574.085, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 214.131, 537.523 and 574.085, to read as follows:

214.131. Every person who shall knowingly destroy, mutilate, disfigure, deface, injure or remove any tomb, monument or gravestone, or other structure placed in any abandoned family cemetery or private burying ground, or any fence, railing, or other work for the protection or ornamentation of any such cemetery or place of burial of any human being, or tomb, monument or gravestone, memento, or memorial, or other structure aforesaid, or of any lot within such cemetery is guilty of [a class A misdemeanor] **institutional vandalism pursuant to section 574.085, RSMo**. For the purposes of this section and subsection 1 of section 214.132, an "abandoned family cemetery" or "private burying ground" shall include those cemeteries or burying grounds which have not been deeded to the public as provided in chapter 214, and in which no body has been interred for at least twenty-five years.

537.523. 1. Irrespective of any criminal prosecution or the result thereof, **any owner of property adjacent to an abandoned family cemetery or private burying ground, as defined in section 214.131, RSMo, any caretaker of an abandoned family cemetery or private burying ground, as defined in section 214.131, RSMo, or any person incurring bodily injury**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 or damage or loss to [his] **such person's** property as a result of conduct in violation of section
6 574.085[, 574.090 or 574.093] **or conduct when the defendant's sentence is enhanced**
7 **pursuant to section 557.035, RSMo**, shall have a civil action to secure an injunction, damages
8 or other appropriate relief in law or in equity against any and all persons who have violated
9 section 574.085[, 574.090 or 574.093] **RSMo, or any defendant whose sentence was**
10 **enhanced pursuant to section 557.035, RSMo.**

11 2. In any such action, whether **a defendant's sentence was enhanced pursuant to**
12 **section 557.035, RSMo, or** a violation of section 574.085, [574.090 or 574.093] **RSMo**, has
13 occurred shall be determined according to the burden of proof used in other civil actions for
14 similar relief.

15 3. Upon prevailing in such civil action, the plaintiff may recover:

16 (1) Both special and general damages; and

17 (2) Reasonable attorney fees and costs.

574.085. 1. A person commits the crime of institutional vandalism by knowingly
2 vandalizing, defacing or otherwise damaging:

3 (1) Any church, synagogue or other building, structure or place used for religious
4 worship or other religious purpose;

5 (2) Any cemetery, mortuary, military monument or other facility used for the purpose
6 of burial or memorializing the dead;

7 (3) Any school, educational facility, community center, hospital or medical clinic owned
8 and operated by a religious or sectarian group;

9 (4) The grounds adjacent to, and owned or rented by, any institution, facility, building,
10 structure or place described in subdivision (1), (2), or (3) of this subsection;

11 (5) Any personal property contained in any institution, facility, building, structure or
12 place described in subdivision (1), (2), or (3) of this subsection; or

13 (6) Any motor vehicle which is owned, operated, leased or under contract by a school
14 district or a private school for the transportation of school children.

15 2. Institutional vandalism is punishable as follows:

16 (1) Institutional vandalism is a class A misdemeanor[, except as provided in subdivisions
17 (2) and (3) of this subsection] **if the damage to or loss of the property is valued at less than**
18 **five hundred dollars;**

19 (2) Institutional vandalism is a class D felony if the [offender commits any act described
20 in subsection 1 of this section which causes damage to, or loss of, the property of another in an
21 amount in excess of one thousand dollars] **damage to or loss of the property is valued at at**
22 **least five hundred dollars and not more than ten thousand dollars;**

23 (3) Institutional vandalism is a class C felony if the [offender commits any act described

24 in subsection 1 of this section which causes damage to, or loss of, the property of another in an
25 amount in excess of five thousand dollars] **damage to or loss of the property is valued at at**
26 **least ten thousand dollars and less than one hundred thousand dollars;**

27 **(4) Institutional vandalism is a class C felony and the offender shall be sentenced**
28 **to seven years incarceration without possibility of probation or parole, if the damage to or**
29 **loss of the property is valued at at least one hundred thousand dollars.**

30 3. In determining the amount of damage to property or loss of property, for purposes of
31 this section, damage includes the cost of repair or, where necessary, replacement of the property
32 that was damaged or lost.

33 **4. In addition to any other penalty, the offender shall be ordered to pay restitution**
34 **for the damage to or loss of the property.**