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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 2. CHILDREN [100 - 1500]** ( *Division 2 enacted by Stats. 1937, Ch. 369.* )

**PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT [100 - 1459]** ( *Part 1 enacted by Stats. 1937, Ch. 369.* )

**CHAPTER 2. Juvenile Court Law [200 - 987]** ( *Chapter 2 repealed and added by Stats. 1961, Ch. 1616.* )

**ARTICLE 18.5. Graffiti Removal and Damage Recovery Program [742.10 - 742.22]** ( *Article 18.5 added by Stats. 1994, Ch. 909, Sec. 11.* )

**742.10.** It is the intent of the Legislature in enacting this article to accomplish the following purposes:

- (a) To assist public and private owners and possessors of property defaced by minors with graffiti or other inscribed material to recover their full damages.
- (b) To safeguard the fiscal integrity of cities and counties that expend public funds to remove graffiti and other material inscribed by minors from public or private property, or to repair or replace public or private property defaced by minors with graffiti or other inscribed material, by enabling those cities and counties to recoup the full costs of that removal, repair, and replacement.
- (c) To safeguard the fiscal integrity of cities and counties by enabling them to recoup the law enforcement costs of identifying and apprehending minors who deface the property of others with graffiti or other inscribed material.
- (d) To minimize the costs of collecting those costs and damages.
- (e) To discourage the inscription of graffiti and other material by minors by requiring the offending minors, and their parents who have the financial ability to do so, to bear the costs associated with the unlawful defacement of property with graffiti or other inscribed material.
- (f) To retain in the juvenile court the discretion needed to accomplish the goal of rehabilitating minors.

(*Added by Stats. 1994, Ch. 909, Sec. 11. Effective January 1, 1995.*)

**742.12.** (a) As used in this article, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(b) As used in subdivision (d) of Section 742.16, the word "custody" means either legal custody or physical custody of a minor.

(*Added by Stats. 1994, Ch. 909, Sec. 11. Effective January 1, 1995.*)

**742.14.** (a) A city, county, or city and county may elect, by ordinance, to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Section 742.16, its costs associated with defacement by minors of its property and the property of others by graffiti or other inscribed material. That ordinance shall include the cost finding or findings specified in subdivision (b), and if the city, county, or city and county enacts an ordinance pursuant to Section 53069.3 of the Government Code, the cost findings specified in subdivision (c). These cost findings shall be reviewed at least once every three years, at which time the city, county, or city and county, by resolution, shall adopt updated cost findings in accordance with subdivisions (b) and (c). A city, county, or city and county may rescind, by ordinance, its election to have the probation officer recoup its costs pursuant to this section. Immediately after adoption, the city or county shall cause a certified copy of an ordinance adopted pursuant to this subdivision and any resolution containing updated cost findings to be forwarded to the clerk of the juvenile court in the county and to the probation officer of the county.

(b) A city, county, or city and county that adopts an ordinance pursuant to subdivision (a) shall include therein a finding or findings, to be reviewed at least once every three years, of the average costs per unit of measure incurred by the law enforcement agency with primary jurisdiction in the city, county, or city and county in identifying and apprehending a person subsequently convicted of violation of Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code or a minor subsequently found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal

Code. A city, county, or city and county that does not adopt an ordinance pursuant to subdivision (a) may adopt an ordinance containing the cost finding or findings described in this subdivision. Findings of costs per unit of measure may include, but are not limited to, findings of the hourly costs of employee time and of the costs per mile of operating patrol vehicles.

(c) If a city, county, or city and county enacts an ordinance pursuant to Section 53069.3 of the Government Code and enacts an ordinance pursuant to subdivision (a), the ordinance enacted pursuant to subdivision (a) shall contain findings, to be reviewed at least once every three years, of the average cost to the city, county, or city and county per unit of measure of removing graffiti and other inscribed material, and of repairing and replacing property of the types frequently defaced with graffiti or other inscribed material that cannot be removed cost effectively. A city, county, or city and county that does not adopt an ordinance pursuant to subdivision (a) may adopt an ordinance containing the cost findings described in this subdivision. Findings of costs per unit of measure may include, but are not limited to, findings of the costs per square inch of removing painted graffiti or of the costs per item of replacing items that have been etched.

(d) A school district, district, or other local public agency may elect, by formal action of its governing body, to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Section 742.16, its costs associated with the defacement by minors of property it owns or possesses by graffiti or other inscribed material. Upon election, the school district, district, or other local public agency shall make the cost findings described in subdivision (c). These cost findings shall be reviewed at least once every three years, at which time the school district, district, or other local public agency, by formal action of its governing body, shall adopt updated cost findings in accordance with subdivision (c). A school district, district, or other local public agency may rescind, by resolution, its election to have the probation officer recoup its costs pursuant to this section. Immediately after making the election described in this subdivision and adopting initial or updated cost findings, and immediately after rescinding said election, the school district, district, or other local public agency shall cause a certified copy of a document memorializing the election, rescission, or cost findings to be forwarded to the clerk of the juvenile court in the county and to the probation officer of the county. A school district, district, or other local public agency that does not elect to have the probation officer of the county recoup its costs pursuant to Section 742.16 may adopt the cost findings described in this subdivision.

(e) A city, county, or city and county that has elected to have the probation officer of the county recoup its costs pursuant to Section 742.16 shall transmit to the probation officer, forthwith, data about its expenditure of resources in identifying and apprehending any minor about whom a petition is filed alleging that the minor is a person described by Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code. That data shall be sufficient to enable the probation officer and the juvenile court to calculate the costs to the city, county, or city and county in identifying and apprehending the minor.

(f) A city, county, or other public agency that has elected to have the probation officer of the county recoup its costs pursuant to Section 742.16 and that has made cost findings pursuant to subdivisions (c) or (d) shall transmit to the probation officer, forthwith, data about its expenditure of resources to remove graffiti or other material inscribed by, or to repair or replace property defaced by, any minor about whom a petition is filed alleging that the minor is a person described by Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code. That data shall be sufficient to enable the probation officer and the juvenile court to calculate the costs to the city, county, or other local agency for that removal, repair, or replacement.

(g) The probation officer of a county may establish procedures for collecting the data described in subdivision (e) and (f). These procedures may include a provision that the juvenile court may not award and the probation officer may refuse to collect costs described in this section unless the data required to be provided to the probation officer pursuant to subdivisions (e) and (f) is provided to him or her within a time certain after he or she makes a demand therefor.

*(Added by Stats. 1994, Ch. 909, Sec. 11. Effective January 1, 1995.)*

**742.16.** (a) If a minor is found to be a person described in Section 602 of this code by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate, shall require the minor to wash, paint, repair, or replace the property defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both. In any case in which the minor is not granted probation or in which the minor's cleanup, repair, or replacement of the property will not return the property to its condition before it was defaced, damaged, or destroyed, the court shall make a finding of the amount of restitution that would be required to fully compensate the owner and possessor of the property for their damages. The court shall order the minor or the minor's estate to pay that restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both, to the extent the court determines that the minor or the minor's estate have the ability to do so, except in any case in which the court makes a finding and states on the record its reasons why full restitution would be inappropriate. If full restitution is found to be inappropriate, the court shall require the minor to perform specified community service, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate.

(b) If a minor is found to be a person described in Section 602 of this code by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the graffiti or other material inscribed by the minor has been removed, or the property defaced by the minor has been repaired or replaced by a public entity that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section and has made cost findings in accordance with subdivision (c) or (d) of Section 742.14, the court shall determine the total cost incurred by the public entity for said removal, repair, or replacement, using, if applicable, the cost findings most recently adopted by the public entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(c) If the minor is found to be a person described in Section 602 of this code by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate has the ability to do so.

(d) If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to Section 1714.1 of the Civil Code for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

(e) The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(f) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars (\$5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct that hearing in accordance with Sections 116.510 and 116.520 of the Code of Civil Procedure. Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a spouse may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

(g) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars (\$5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an attorney or nonattorney designee of the probation officer. The parent or parents shall not be entitled to court-appointed counsel or to counsel compensated at public expense.

(h) At the hearing conducted pursuant to subdivision (d), there shall be a presumption affecting the burden of proof that the findings of the court made pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor that forms the basis of the finding that the minor is a person described in Section 602.

(i) If the parent or parents, after having been cited to appear pursuant to Section 742.18, fail to appear as ordered, the court shall order the parent or parents to pay the full amount of the costs and damages determined by the court pursuant to subdivisions (a), (b), and (c).

(j) Execution may be issued on an order issued by the court pursuant to this section in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(k) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the showing of a change in circumstances relating to his or her ability to pay the judgment.

(l) For purposes of a hearing conducted pursuant to subdivision (d), the judge of the juvenile court shall have the jurisdiction of a judge of the superior court in a limited civil case, and if the amount of the demand is within the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure, the judge of the juvenile court shall have the powers of a judge presiding over the small claims court.

(m) Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(n) The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k), to order payment by the minor and his or her parent or parents of less than the full costs described in subdivisions (a), (b), and (c), on grounds of financial inability or for reasons

of justice, shall not be available to a superior court in an ordinary civil proceeding pursuant to subdivision (b) of Section 1714.1 of the Civil Code, except that in any proceeding pursuant to either subdivision (b) of Section 1714.1 of the Civil Code or this section, the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars (\$20,000) for each tort of the minor.

*(Amended by Stats. 2016, Ch. 50, Sec. 120. (SB 1005) Effective January 1, 2017.)*

**742.18.** (a) If the petition alleges that the minor is the person described by Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the petition is sustained, the court, in addition to the notice provided in Sections 658 and 659, shall issue a citation to the minor's parent or legal guardian, ordering them to appear in the court at the time and date stated for a hearing pursuant to subdivision (d) of Section 742.16.

(b) The citation shall notify the parent or legal guardian that at the hearing, he, she, or they may be ordered to pay restitution sufficient to fully compensate the owner and possessor of the property defaced by the minor for the damage caused by that defacement, the law enforcement costs of identifying and apprehending the minor, if applicable, and the costs incurred by a public entity to remove graffiti or other material inscribed by the minor, or to repair or replace the property defaced by the minor, if applicable. The citation shall set forth the provisions of Section 742.16 and shall advise the parent or parents that he, she, or they may be ordered to pay an amount not exceeding twenty thousand dollars (\$20,000) for the above-referenced damages and costs. The citation shall contain a warning to the parent or parents that if he, she, or they fail to appear at the time and date stated, the court will order him, her, or them to pay in full the costs and damages caused by the act of the minor.

(c) Service of the citation shall be made on all parents or legal guardians of the minor whose names and addresses are known to the petitioner.

(d) Service of the citation shall be made at least 10 days prior to the time and date stated therein for appearance, in the manner provided by law for the service of a summons in a civil action, other than by publication.

*(Added by Stats. 1994, Ch. 909, Sec. 11. Effective January 1, 1995.)*

**742.20.** Any moneys collected by the probation officer of the county pursuant to an order rendered pursuant to Section 742.16 shall be distributed by the county to the following persons and entities in the following priority:

(a) Restitution to the owner and possessor of the property defaced by the minor, in the amount determined by the court.

(b) After the restitution described in subdivision (a) has been paid in full, or if restitution was not ordered, the costs of removing graffiti or other material inscribed by the minor and of repairing or replacing property defaced by the minor, to the city, county, or other local public agency that incurred those costs, except that the county may deduct and retain 15 percent of the amount collected for the removal, repair, or replacement costs, or an amount equivalent to its actual costs of collection, whichever is less.

(c) After the costs and damages described in subdivisions (a) and (b) have been paid in full, or if there are no costs or damages, the law enforcement costs of identifying and apprehending the minor, to the city or county that incurred those costs, except that the county may deduct and retain 15 percent of the amount collected for those law enforcement costs, or an amount equivalent to its actual costs of collection, whichever is less.

*(Added by Stats. 1994, Ch. 909, Sec. 11. Effective January 1, 1995.)*

**742.22.** If any provision or clause of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

*(Added by Stats. 1994, Ch. 909, Sec. 11. Effective January 1, 1995.)*