

**RESOLUTION 10-03-2017**

**DIGEST**

Vandalism: Driver’s License Suspension Permissive Not Mandatory

Amends Vehicle Code section 13202.6 to provide that the suspension of a driver’s license for a vandalism conviction be permissive and not mandatory.

**RESOLUTIONS COMMITTEE RECOMMENDATION**

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Vehicle Code section 13202.6 to provide that suspension of a driver’s license for a vandalism conviction be permissive and not mandatory. This resolution should be approved in principle because it gives courts the flexibility to impose a license suspension on a case-by-case basis.

The rationale behind the original law was to harshly punish gang members who tagged their territory with graffiti. However, the vandalism statute is broad, applying to any malicious damage or destruction of personal or real property of another person regardless of whether it is graffiti or gang related. Graffiti is only one type of vandalism and it is not exclusive to gang members. Impulsive, thoughtless, or even vengeful acts in the heat of emotion by an individual, can constitute vandalism and come under the purview of this provision for a two-year minimum driver’s license suspension.

Driver’s license suspensions can have a deleterious effect on a person, particularly where commutes are long and public transportation is wanting. Judges should have the discretion to craft a punishment to fit the crime. The nature and extent of an act of vandalism, the actor, circumstances and motive, are specific to the crime. Sometimes it warrants a driver’s license suspension in addition to the other punishment, but sometimes it does not. The resolution gives that discretion to the judge.

This resolution is related to Resolution 10-07-2017, which deletes Vehicle Code section 13202.6.

**TEXT OF RESOLUTION**

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to amend Vehicle Code section 13202.6 to read as follows:

- 1 § 13202.6
- 2 (a) (1) For every conviction of a person for a violation of Section 594, 594.3, or 594.4 of
- 3 the Penal Code, committed while the person was 13 years of age or older, the court may shall
- 4 suspend the person’s driving privilege for not more than two years, except when the court finds
- 5 that a personal or family hardship exists that requires the person to have a driver’s license for his

6 or her own, or a member of his or her family's, employment, school, or medically related  
7 purposes. If the person convicted does not yet have the privilege to drive, the court may ~~shall~~  
8 order the department to delay issuing the privilege to drive for not less than one year nor more  
9 than three years subsequent to the time the person becomes legally eligible to drive. However, if  
10 there is no further conviction for violating Section 594, 594.3, or 594.4 of the Penal Code in a  
11 12-month period after the conviction, the court, upon petition of the person affected, may modify  
12 the order imposing the delay of the privilege. For each successive offense, the court may ~~shall~~  
13 suspend the person's driving privilege for those possessing a license or delay the eligibility for  
14 those not in possession of a license at the time of their conviction for one additional year.

15 (2) A person whose driving privilege is suspended or delayed for an act involving  
16 vandalism in violation of Section 594, 594.3, or 594.4 of the Penal Code, may elect to reduce the  
17 period of suspension or delay imposed by the court by performing community service under the  
18 supervision of the probation department. The period of suspension or delay ordered under  
19 paragraph (1) shall be reduced at the rate of one day for each hour of community service  
20 performed. If the jurisdiction has adopted a graffiti abatement program as defined in subdivision  
21 (f) of Section 594 of the Penal Code, the period of suspension or delay ordered under paragraph  
22 (1) shall be reduced at the rate of one day for each day of community service performed in the  
23 graffiti abatement program when the defendant and his or her parents or legal guardians are  
24 responsible for keeping a specified property in the community free of graffiti for a specified  
25 period of time. The suspension shall be reduced only when the specified period of participation  
26 has been completed. Participation of a parent or legal guardian is not required under this  
27 paragraph if the court deems this participation to be detrimental to the defendant, or if the parent  
28 or legal guardian is a single parent who must care for young children. For purposes of this  
29 paragraph, "community service" means cleaning up graffiti from any public property, including  
30 public transit vehicles.

31 (3) As used in this section, the term "conviction" includes the findings in juvenile  
32 proceedings specified in Section 13105.

33 (b) (1) Whenever the court suspends driving privileges pursuant to subdivision (a), the  
34 court in which the conviction is had shall require all drivers' licenses held by the person to be  
35 surrendered to the court. The court shall, within 10 days following the conviction, transmit a  
36 certified abstract of the conviction, together with any drivers' licenses surrendered, to the  
37 department.

38 (2) Violations of restrictions imposed pursuant to this section are subject to Section  
39 14603.

40 (c) The suspension, restriction, or delay of driving privileges pursuant to this section shall  
41 be in addition to any penalty imposed upon conviction of a violation of Section 594, 594.3, or  
42 594.4 of the Penal Code.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** Sacramento County Bar Association

### **STATEMENT OF REASONS**

The Problem: The driver's license suspension associated with vandalism was a response to graffiti in the early 1990's. At the time, there was a popular and unfounded sentiment associating

graffiti with gang activity. Under current law, a conviction for vandalism *of any kind* comes with a mandatory driver's license suspension. Vandalism is one of the *only* non-driving related criminal offenses that comes with a driver's license suspension. Failure to appear, failure to pay traffic fines, and contempt of court may carry driver's license suspensions. Those issues are being addressed by unrelated legislation. Burglars, rapists, and murderers do not face this type of punishment.

The Solution: This resolution seeks to amend Vehicle Code Section 13202.6 to make the driver's license suspension associated with vandalism permissive rather than mandatory. If, in a specific case, a judge finds the ability to legally drive is somehow related to the vandalism conduct, the court may still impose the driver's license suspension.

#### **IMPACT STATEMENT**

This resolution does affect any other law, statute or rule other than those expressly identified.

#### **CURRENT OR PRIOR RELATED LEGISLATION**

None known.

**AUTHORS AND/OR PERMANENT CONTACTS:** Robert Sorokolit, 700 H St, Suite 0270, Sacramento, CA 95814; Telephone: (916) 874-6879; Fax (916) 874-8223; email: sorokolitr@saccounty.net

**RESPONSIBLE FLOOR DELEGATE:** Robert Sorokolit