

**PROPOSED SUBSTITUTE TO FILE ID 15-4289**  
**Law Enforcement Committee 7/29/2015**  
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**Sponsored by:** STANLEY MOORE, County Commissioner

**PROPOSED ORDINANCE AMENDMENT**

**OFFENSES INVOLVING PROPERTY RIGHTS**

**BE IT ORDAINED**, by the Cook County Board of Commissioners that Chapter 58, Offenses and Miscellaneous Provisions, Sec. 58-41 is hereby amended as follows:

**ARTICLE II. - OFFENSES INVOLVING PROPERTY RIGHTS**

Sec. 58-41. - Vandalism and related offenses.

(a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adjudicatory body* means a judge assigned to the Circuit Court of Cook County or an administrative law officer appointed pursuant to Chapter 2, Administration, Article IX, Administrative Hearings, of this Code.

*County* means any unincorporated area or territory of Cook County, Illinois, and does not include any incorporated city, village, or town lying in whole or in part within the territory of Cook County, Illinois.

*Enforcement Area* means the County and any area of primary local police enforcement by the Cook County Sheriff's Office as defined by an intergovernmental agreement between the County and the local municipality, which authorizes the Sheriff to provide primary local police enforcement and expressly references the local municipality's agreement to comply with County Ordinances, which many in any manner relate to the provision of primary local police enforcement by the Cook County Sheriff's Office.

*Legal guardian* shall include a person appointed guardian, or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian, or given custody of a minor under the Juvenile Court Act of 1987 (705 ILCS 405/1-1 et seq.).

*Minor* means a person who has attained 11 years of age but who has not yet reached 18 years of age.

*Property* shall include any real estate including improvements thereon, and tangible personalty.

- (b) *Parents or legal guardians ~~held criminally responsible~~*. Acts of vandalism resulting in damage to real or personal property within the Enforcement Area ~~unincorporated areas of the County~~ have increased, posing a threat to the value of property and the welfare of residents. It is in the best interests of the County that such acts be prosecuted by the County as a local offense; that penalties therefor be imposed which are related to the nature of the act and the type of offender; and that parents or legal guardians of minors who allow such acts to be committed by such minors be held ~~criminally~~ responsible for the failure to prevent the commission of such acts. The diligent pursuit of such interests will tend to increase parental supervision of minors and reduce the incidence of juvenile vandalism, thus advancing the welfare of residents of the County.
- (c) *Unlawful acts*. Within ~~unincorporated Cook County~~ the Enforcement Area no person shall:
- (1) Knowingly or recklessly damage or cause to be damaged any property of another person without his consent; or
  - (2) Knowingly and without authority enter into or obtain control over any motor vehicle, bicycle, aircraft or water craft or any part thereof of another person without his consent.
- (d) *Penalty for committing unlawful act*. It shall be unlawful for any parent or guardian of any minor living with its parents or guardian to neglect to restrain such minor from committing any act prohibited by Subsection (c) of this section. The commission of any act prohibited by Subsection (c) of this section by a minor who is living with its parents or guardian shall raise the presumption that the parent or guardian has neglected to restrain such minor from committing such act. It shall be an affirmative defense for the parent or guardian to prove that such parent or guardian exercised his duty to restrain the minor from committing the act prohibited by Subsection (c) of this section complained of in the pending action, but that such action on the part of the parent or guardian to attempt to restrain said minor, although exercised with due care, was unsuccessful.
- (e) *Violation of Subsection (c)*. Every person or minor found guilty of an offense under Subsection (c) of this section shall be subject to either or both of the following penalties:
- (1) *Fine*. A fine not in excess of \$1,000.00.
  - (2) ~~Court~~ Adjudicatory Body supervision.
    - a. *Time period; termination*. The ~~court~~ Adjudicatory Body ~~court~~ Adjudicatory Body may, without entering a judgment of guilty, place such person under ~~court~~ Adjudicatory Body supervision for any period not exceeding one year. Such supervision may include any of the conditions provided for in Subsection (e)(2)b of this section as the ~~court~~ Adjudicatory Body determines appropriate. If the person completes the period of supervision without violating the conditions imposed by the ~~court~~ Adjudicatory Body, the ~~court~~ Adjudicatory Body shall discharge the defendant from supervision and dismiss the charge against the defendant. If the person, while under ~~court~~ Adjudicatory Body supervision, is convicted of any criminal offense in any jurisdiction and the State's Attorney or municipal prosecutor, as the case may be, moves for termination of supervision, the ~~court~~ Adjudicatory Body shall terminate the supervision and enter a judgment of guilty on the plea or finding.

- b. *Conditions.* The conditions of ~~court~~ Adjudicatory Body supervision may, in addition, require that the defendant:
1. Work or pursue a course of study or vocational training;
  2. Make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss or \$1,000.00, whichever is less;
  3. Undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism; and
  4. If a minor, to reside with his parent or in a foster home; attend school; attend a nonresidential program for youth, or contribute to his own support at home or in a foster home.
- c. *Restitution or reparation.* When a ~~court~~ the Adjudicatory Body orders restitution or reparation as a condition for ~~court~~ Adjudicatory Body supervision, the ~~court~~ Adjudicatory Body shall determine the amount and conditions of payment. When the conditions of payment have not been satisfied, the ~~court~~ Adjudicatory Body, at any time prior to the expiration or termination of the period of ~~court~~ Adjudicatory Body supervision may impose an additional period of not more than two years. Only the conditions of payment shall continue to apply during such additional period. The ~~court~~ Adjudicatory Body shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the original conditions and to revoke the penalty of ~~court~~ Adjudicatory Body supervision if the conditions of payment are violated during such additional period.
- d. *Petition charging violation of condition.* When the petition is filed charging a violation of a condition imposed for ~~court~~ Adjudicatory Body supervision, the ~~court~~ Adjudicatory Body:
1. May order a summons to the offender to appear; ~~or order a warrant for the offender's arrest where there is danger of his fleeing the jurisdiction or causing serious harm to others or when the offender fails to answer a summons. The issuance of such warrant or summons shall stay the sentence of court supervision until the final determination of the charge, and the term of court supervision shall not run so long as the offender has not answered the summons or warrant.~~
  2. Shall conduct a hearing of the alleged violation. ~~The court may admit the offender to bail pending the hearing.~~
  3. Shall receive evidence ~~in open court~~ with the right of confrontation, cross-examination and representation by counsel. The County has the burden of going forward with the evidence and proving the violation by the preponderance of the evidence.
  4. Shall not revoke ~~court~~ Adjudicatory Body supervision for failure to comply with conditions of a sentence which imposes financial obligations upon the offender unless such failure is due to willful refusal to pay.
  5. May modify the conditions of ~~court~~ Adjudicatory Body supervision on motion of the County or on its own motion or at the request of the offender after notice to all parties and a hearing.
- e. *Penalty for violation of condition.* If the ~~court~~ Adjudicatory Body finds that the offender has violated a condition at any time prior to the expiration or termination of the period, it may continue the offender on the existing period, with or without

modifying or enlarging the conditions, or may impose any other penalty that was available at the time of the initial penalty.

- f. *Revocation appealable.* A judgment revoking a sentence of ~~court~~ Adjudicatory Body supervision is a final appealable order.
- (f) *Penalty for parental neglect to restrain minor.* Every person found guilty of an offense under Subsection (d) of this section shall pay a fine not in excess of \$1,000.00.
- (g) *Parental liability for fine imposed upon minor.* The parent or legal guardian of a minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a ~~court~~ Adjudicatory Body upon a minor for violation of this article, provided that said minor has not paid said fine or made restitution or reparation within the time ordered by the ~~court~~ Adjudicatory Body, and further provided that said parent or legal guardian has been served with summons or notice to appear in the original cause against such minor and all proceedings thereafter.

**Effective date:** This ordinance shall be in effect immediately upon adoption