

By Mr. Brennan, a petition (accompanied by bill, Senate, No. 231) of John A. Brennan, Jr., for legislation relative to court ordered restitution or community service for persons found guilty of certain acts of malicious destruction or injury to property. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT PERTAINING TO COURT ORDERED RESTITUTION OR COMMUNITY SERVICE FOR PERSONS FOUND GUILTY OF CERTAIN ACTS OF MALICIOUS DESTRUCTION OF PROPERTY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 266 of the General Laws is hereby
2 amended by adding after section 144 the following new sec-
3 tion: —

4 “*Section 145. Court Ordered Restitution or Community*
5 *Service for Persons Found Guilty of Certain Acts of Malicious*
6 *Destruction or Injury to Property.*”

7 The court may require any person who is the subject of a
8 ruling other than a finding of not guilty pursuant to sections
9 11-13, 39, 94-99, 101-117, 122, 124-130, 132, 133, and 137-138A
10 of this chapter, except in any case in which the court makes
11 a finding that such condition would be inappropriate, that
12 such person wash, paint, repair or replace the defaced, dam-
13 aged or destroyed property, or otherwise make restitution to
14 the property owner. If restitution is found to be inappropriate,
15 the court may require, except in any case in which the court
16 makes a finding that such condition would be inappropriate,
17 that the defendant performs specified community service.”

1 SECTION 2. Chapter 119 of the General Laws is hereby
2 amended by striking out section 58 and inserting in place
3 thereof the following: —

4 “*Section 58. Adjudication; Proceedings after Adjudication.*
5 At the hearing of a complaint against a child the court
6 shall hear the testimony of any witnesses that appear and

7 take such evidence relative to the case as shall be produced.
8 If the allegations against a child are proved beyond a reason-
9 able doubt, he may be adjudged a delinquent child, or in lieu
10 thereof, the court may continue the case without a finding
11 and, with the consent of the child and at least one of the
12 child's parents or guardians, place said child in probation.
13 Said probation may include a requirement, subject to agree-
14 ment by the child and at least one of the child's parents or
15 guardians, that the child do work or participate in activities
16 of a type and for a period of time deemed appropriate by the
17 court.

18 If the child is adjudged a delinquent or is placed on proba-
19 tion pursuant to sections 11-13, 39, 94-99, 101-117, 122, 124-
20 130, 132, 133, and 137-138A of Chapter 266 of the General
21 Laws the court may require, except in any case in which the
22 court makes a finding that such a condition would be inappro-
23 priate, that such child wash, paint, repair or replace the de-
24 faced, damaged or destroyed property, or otherwise make
25 restitution to the property owner. If restitution is found to be
26 inappropriate, the court may require, except in any case in
27 which the court makes a finding that such condition would
28 be inappropriate, that the child performs specified community
29 service.

30 If a child is adjudged a delinquent child, the court may place
31 the case on file, or may place the child in the care of a pro-
32 bation officer for such time and on such conditions as may
33 seem proper, or may commit him to the custody of the de-
34 partment of youth services. If it is alleged in the complaint
35 upon which the child is so adjudged that a penal law of the
36 commonwealth, a city ordinance or a town by-law has been
37 violated or, in the cases of habitual school offenders and tru-
38 ancy violations, the court may commit such child to the cus-
39 tody of the commissioner of youth services and authorize him
40 to place such child in the charge of any person, and, if at any
41 time thereafter the child proves unmanageable, to transfer
42 such child to that facility or training school which in the
43 opinion of said commissioner, after study, will best serve the
44 needs of the child, but not for a longer period than until such
45 child becomes eighteen. The department of youth services

46 shall provide for the maintenance, in whole or in part, of any
47 child so placed in the charge of any person.

48 If a child adjudged a delinquent child is placed on proba-
49 tion by the justice in the juvenile appeals session, he may be
50 placed in the care of a probation officer of the district court,
51 including in that term a division of the juvenile court depart-
52 ment, for the judicial district in which such child resides.

53 The court may commit such wayward or delinquent child
54 to the department of youth services, but it shall not commit
55 such child to a jail or house of correction, nor to the Lyman
56 school, the industrial school for boys, or the industrial school
57 for girls, nor to any other institution supported by the com-
58 monwealth for the custody, care and training of delinquent
59 or wayward children or juvenile offenders.

60 The court may make an order for payment by the child's
61 parents or guardian from the child's property, or by any other
62 person responsible for the care and support of said child, to
63 the institution, department, division, organization or person
64 furnishing care and support at times to be stated in an order
65 by the court of sums not exceeding the cost of said support
66 after ability to pay has been determined by the court; pro-
67 vided, that no order for the payment of money shall be entered
68 until the person by whom payments are to be made shall have
69 been summoned before the court and given an opportunity
70 to be heard. The court may from time to time, upon petition
71 by, or notice to the person ordered to pay such sums of money,
72 revise or alter such order to make a new order, as the cir-
73 cumstances may require."

