

By Senator Detert

28-01250-14

20141040__

1 A bill to be entitled
2 An act relating to restitution for juvenile offenses;
3 amending s. 985.35, F.S.; conforming provisions to
4 changes made by the act; amending s. 985.437, F.S.;
5 requiring a child's parent or guardian, in addition to
6 the child, to make restitution for damage or loss
7 caused by the child's offense; providing for payment
8 plans in certain circumstances; authorizing the parent
9 or guardian to be absolved of liability for
10 restitution in certain circumstances; authorizing the
11 court to order both parents or guardians liable for
12 the child's restitution regardless of one parent
13 having sole parental responsibility; specifying that
14 the Department of Children and Families, foster
15 parents, and specified agencies contracted with the
16 department are not guardians for purposes of
17 restitution; amending s. 985.513, F.S.; removing
18 duplicative provisions authorizing the court to
19 require a parent or guardian to be responsible for any
20 restitution ordered against the child; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (a) of subsection (4) of section
26 985.35, Florida Statutes, is amended to read:

27 985.35 Adjudicatory hearings; withheld adjudications;
28 orders of adjudication.—

29 (4) If the court finds that the child named in the petition

28-01250-14

20141040__

30 has committed a delinquent act or violation of law, it may, in
31 its discretion, enter an order stating the facts upon which its
32 finding is based but withholding adjudication of delinquency.

33 (a) Upon withholding adjudication of delinquency, the court
34 may place the child in a probation program under the supervision
35 of the department or under the supervision of any other person
36 or agency specifically authorized and appointed by the court.
37 The court may, as a condition of the program, impose as a
38 penalty component restitution in money or in kind to be made by
39 the child and the child's parent or guardian as provided in s.
40 985.437, community service, a curfew, urine monitoring,
41 revocation or suspension of the driver ~~driver's~~ license of the
42 child, or other nonresidential punishment appropriate to the
43 offense, and may impose as a rehabilitative component a
44 requirement of participation in substance abuse treatment, or
45 school or other educational program attendance.

46 Section 2. Present subsection (5) of section 985.437,
47 Florida Statutes, is renumbered as subsection (7), subsections
48 (1), (2), and (4) are amended, and new subsections (5) and (6)
49 are added to that section, to read:

50 985.437 Restitution.—

51 (1) Regardless of whether adjudication is imposed or
52 withheld, the court that has jurisdiction over a ~~an adjudicated~~
53 ~~delinquent~~ child may, by an order stating the facts upon which a
54 determination of a sanction and rehabilitative program was made
55 at the disposition hearing, order the child and the child's
56 parent or guardian to make restitution in the manner provided in
57 this section. This order shall be part of the child's probation
58 program to be implemented by the department or, in the case of a

28-01250-14

20141040__

59 committed child, as part of the community-based sanctions
60 ordered by the court at the disposition hearing or before the
61 child's release from commitment.

62 (2) If the court orders restitution, the court shall ~~may~~
63 order the child and the child's parent or guardian to make
64 restitution in money, through a promissory note ~~assigned by the~~
65 ~~child's parent or guardian,~~ or in kind for any damage or loss
66 caused by the child's offense in a reasonable amount or manner
67 to be determined by the court. When restitution is ordered by
68 the court, the amount of restitution may not exceed an amount
69 the child and the parent or guardian could reasonably be
70 expected to pay or make. If the child and the child's parent or
71 guardian are unable to pay the restitution in one lump-sum
72 payment, the court may set up a payment plan that reflects their
73 ability to pay the restitution amount.

74 (4) The parent or guardian may be absolved of liability for
75 restitution under this section if:

76 (a) After a hearing, the court finds that it is the child's
77 first referral to the delinquency system and ~~A finding by the~~
78 ~~court, after a hearing,~~ that the parent or guardian has made
79 diligent and good faith efforts to prevent the child from
80 engaging in delinquent acts; or

81 (b) The victim entitled to restitution as a result of
82 damage or loss caused by the child's offense is that child's
83 parent or guardian absolves the parent or guardian of liability
84 for restitution under this section.

85 (5) The court may order both parents or guardians liable
86 for restitution associated with the child's care,
87 notwithstanding instances when one parent or guardian has sole

28-01250-14

20141040__

88 parental responsibility.

89 (6) For purposes of this section, the Department of
90 Children and Families, a foster parent with whom the child is
91 placed, or the community-based care lead agency supervising the
92 placement of the child pursuant to a contract with the
93 Department of Children and Families is not considered a guardian
94 responsible for restitution for the delinquent acts of a child
95 who is found to be dependent as defined in s. 39.01(15).

96 Section 3. Subsection (1) of section 985.513, Florida
97 Statutes, is amended to read:

98 985.513 Powers of the court over parent or guardian at
99 disposition.—

100 (1) The court that has jurisdiction over an adjudicated
101 delinquent child may, by an order stating the facts upon which a
102 determination of a sanction and rehabilitative program was made
103 at the disposition hearing,÷

104 ~~(a)~~ order the child's parent or guardian, together with the
105 child, to render community service in a public service program
106 or to participate in a community work project. In addition to
107 the sanctions imposed on the child, the court may order the
108 child's parent or guardian to perform community service if the
109 court finds that the parent or guardian did not make a diligent
110 and good faith effort to prevent the child from engaging in
111 delinquent acts.

112 ~~(b) Order the parent or guardian to make restitution in~~
113 ~~money or in kind for any damage or loss caused by the child's~~
114 ~~offense. The court may also require the child's parent or legal~~
115 ~~guardian to be responsible for any restitution ordered against~~
116 ~~the child, as provided under s. 985.437. The court shall~~

28-01250-14

20141040__

117 ~~determine a reasonable amount or manner of restitution, and~~
118 ~~payment shall be made to the clerk of the circuit court as~~
119 ~~provided in s. 985.437.~~ The court may retain jurisdiction, as
120 provided under s. 985.0301, over the child and the child's
121 parent or legal guardian whom the court has ordered to pay
122 restitution until the restitution order is satisfied or the
123 court orders otherwise.

124 Section 4. This act shall take effect July 1, 2014.