

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 restitution to be paid only by the
12 parents or guardians who have current custody and
13 parental responsibility; specifying that the
14 Department of Children and Families, foster parents,
15 specified facilities, and specified agencies
16 contracted with the department are not guardians for
17 purposes of restitution; amending s. 985.513, F.S.;
18 removing duplicative provisions authorizing the court
19 to require a parent or guardian to be responsible for
20 any restitution ordered against the child; providing
21 an effective date.

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

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

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

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

51 985.437 Restitution.—

52 (1) Regardless of whether adjudication is imposed or

53 withheld, the court that has jurisdiction over a ~~an adjudicated~~
54 ~~delinquent~~ child may, by an order stating the facts upon which a
55 determination of a sanction and rehabilitative program was made
56 at the disposition hearing, order the child and the child's
57 parent or guardian to make restitution in the manner provided in
58 this section. This order shall be part of the child's probation
59 program to be implemented by the department or, in the case of a
60 committed child, as part of the community-based sanctions
61 ordered by the court at the disposition hearing or before the
62 child's release from commitment.

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

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

77 (a) After a hearing, the court finds that it is the
78 child's first referral to the delinquency system and ~~A finding~~

79 ~~by the court, after a hearing,~~ that the parent or guardian has
 80 made diligent and good faith efforts to prevent the child from
 81 engaging in delinquent acts; or

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

86 (5) The court may only order restitution to be paid by the
 87 parents or guardians who have current custody of and parental
 88 responsibility for the child.

89 (6) For purposes of this section, the Department of
 90 Children and Families, a foster parent with whom the child is
 91 placed, 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, or a facility registered
 94 under s. 409.176 is not considered a guardian responsible for
 95 restitution for the delinquent acts of a child who is found to
 96 be dependent as defined in s. 39.01(15).

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

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

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

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

113 ~~(b) Order the parent or guardian to make restitution in~~
114 ~~money or in kind for any damage or loss caused by the child's~~
115 ~~offense. The court may also require the child's parent or legal~~
116 ~~guardian to be responsible for any restitution ordered against~~
117 ~~the child, as provided under s. 985.437. The court shall~~
118 ~~determine a reasonable amount or manner of restitution, and~~
119 ~~payment shall be made to the clerk of the circuit court as~~
120 ~~provided in s. 985.437. The court may retain jurisdiction, as~~
121 ~~provided under s. 985.0301, over the child and the child's~~
122 ~~parent or legal guardian whom the court has ordered to pay~~
123 ~~restitution until the restitution order is satisfied or the~~
124 ~~court orders otherwise.~~

125 Section 4. This act shall take effect July 1, 2015.