

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; authorizing the court  
8 to establish a payment plan in certain circumstances;  
9 authorizing the child's parent or guardian to be  
10 absolved of liability for restitution in certain  
11 circumstances; authorizing the court to order  
12 restitution to be paid only by the parents or  
13 guardians who have current custody and parental  
14 responsibility; providing that the Department of  
15 Children and Families, foster parents, and specified  
16 facilities and agencies are not guardians for purposes  
17 of restitution; amending s. 985.513, F.S.; removing  
18 duplicative provisions; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Paragraph (a) of subsection (4) of section  
23 985.35, Florida Statutes, is amended to read:

24 985.35 Adjudicatory hearings; withheld adjudications;  
25 orders of adjudication.-

26 (4) If the court finds that the child named in the  
27 petition has committed a delinquent act or violation of law, it  
28 may, in its discretion, enter an order stating the facts upon  
29 which its finding is based but withholding adjudication of  
30 delinquency.

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

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

48 985.437 Restitution.—

49 (1) Regardless of whether adjudication is imposed or  
50 withheld, the court that has jurisdiction over a ~~an~~ adjudicated

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

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

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

75 (a) After a hearing, the court finds that it is the

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

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

84 | (5) The court may order restitution to be made in kind or  
 85 | paid only by the parents or guardians who have current custody  
 86 | of and parental responsibility for the child.

87 | (6) For purposes of this section, the Department of  
 88 | Children and Families, a foster parent with whom the child is  
 89 | placed, the community-based care lead agency supervising the  
 90 | placement of the child pursuant to a contract with the  
 91 | Department of Children and Families, or a facility licensed or  
 92 | registered under s. 409.175 or s. 409.176 is not considered a  
 93 | guardian responsible for restitution for the delinquent acts of  
 94 | a child who is found to be dependent as defined in s. 39.01(15).

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

97 | 985.513 Powers of the court over parent or guardian at  
 98 | disposition.—

99 | (1) The court that has jurisdiction over an adjudicated  
 100 | delinquent child may, by an order stating the facts upon which a

101 determination of a sanction and rehabilitative program was made  
102 at the disposition hearing,+

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

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

123 Section 4. This act shall take effect July 1, 2020.