

By Senator Perry

8-00302-20

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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:

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

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

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

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

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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,<sup>+</sup>

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

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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.