

HB 455

2014

1 A bill to be entitled
2 An act relating to restitution for juvenile offenses;
3 amending s. 985.437, F.S.; requiring a child's parent
4 or guardian, in addition to the child, to make
5 restitution for damage or loss caused by the child's
6 offense; providing for payment plans in certain
7 circumstances; authorizing the parent or guardian to
8 be absolved of liability for restitution in certain
9 circumstances; specifying that the Department of
10 Children and Families is not a guardian for purposes
11 of restitution; amending s. 985.513, F.S.; removing
12 duplicative provisions authorizing the court to
13 require a parent or guardian to be responsible for any
14 restitution ordered against the child; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (5) of section 985.437, Florida
20 Statutes, is renumbered as subsection (6), subsections (1), (2),
21 and (4) are amended, and a new subsection (5) is added to that
22 section, to read:

23 985.437 Restitution.—

24 (1) The court that has jurisdiction over an adjudicated
25 delinquent child may, by an order stating the facts upon which a
26 determination of a sanction and rehabilitative program was made
27 at the disposition hearing, order the child and the child's
28 parent or guardian to make restitution in the manner provided in

29 | this section. This order shall be part of the child's probation
30 | program to be implemented by the department or, in the case of a
31 | committed child, as part of the community-based sanctions
32 | ordered by the court at the disposition hearing or before the
33 | child's release from commitment.

34 | (2) If the court orders restitution, the court shall ~~may~~
35 | order the child and the child's parent or guardian to make
36 | restitution in money, through a promissory note cosigned by the
37 | child's parent or guardian, or in kind for any damage or loss
38 | caused by the child's offense in a reasonable amount or manner
39 | to be determined by the court. When restitution is ordered by
40 | the court, the amount of restitution may not exceed an amount
41 | the child and the parent or guardian could reasonably be
42 | expected to pay or make. If the child and the child's parent or
43 | guardian are unable to pay the restitution in one lump-sum
44 | payment, the court may set up a payment plan that reflects their
45 | ability to pay the restitution amount.

46 | (4) The parent or guardian may be absolved of liability
47 | for restitution under this section, if:

48 | (a) After a hearing, the court finds that it is the
49 | child's first referral to the delinquency system and ~~A finding~~
50 | ~~by the court, after a hearing,~~ that the parent or guardian has
51 | made diligent and good faith efforts to prevent the child from
52 | engaging in delinquent acts; or

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

57 | (5) For purposes of this section, the Department of
 58 | Children and Families is not considered a guardian responsible
 59 | for restitution for the delinquent acts of a child who is found
 60 | to be dependent as defined in s. 39.01(15).

61 | Section 2. Subsection (1) of section 985.513, Florida
 62 | Statutes, is amended to read:

63 | 985.513 Powers of the court over parent or guardian at
 64 | disposition.—

65 | (1) The court that has jurisdiction over an adjudicated
 66 | delinquent child may, by an order stating the facts upon which a
 67 | determination of a sanction and rehabilitative program was made
 68 | at the disposition hearing, ~~÷~~

69 | ~~(a)~~ order the child's parent or guardian, together with
 70 | the child, to render community service in a public service
 71 | program or to participate in a community work project. In
 72 | addition to the sanctions imposed on the child, the court may
 73 | order the child's parent or guardian to perform community
 74 | service if the court finds that the parent or guardian did not
 75 | make a diligent and good faith effort to prevent the child from
 76 | engaging in delinquent acts.

77 | ~~(b) Order the parent or guardian to make restitution in~~
 78 | ~~money or in kind for any damage or loss caused by the child's~~
 79 | ~~offense. The court may also require the child's parent or legal~~
 80 | ~~guardian to be responsible for any restitution ordered against~~
 81 | ~~the child, as provided under s. 985.437. The court shall~~
 82 | ~~determine a reasonable amount or manner of restitution, and~~
 83 | ~~payment shall be made to the clerk of the circuit court as~~
 84 | ~~provided in s. 985.437. The court may retain jurisdiction, as~~

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85 | provided under s. 985.0301, over the child and the child's
86 | parent or legal guardian whom the court has ordered to pay
87 | restitution until the restitution order is satisfied or the
88 | court orders otherwise.

89 | Section 3. This act shall take effect July 1, 2014.