

By the Committee on Children, Families, and Elder Affairs; and
Senators Detert and Gaetz

586-02928-15

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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; 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 of the child; specifying that
14 the Department of Children and families, foster
15 parents, a facility registered under s. 409.176, F.S.,
16 and specified agencies contracted with the department
17 are not guardians for purposes of restitution;
18 amending s. 985.513, F.S.; removing duplicative
19 provisions authorizing the court to require a parent
20 or guardian to be responsible for any restitution
21 ordered against the child; providing an effective
22 date.

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

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26 Section 1. Paragraph (a) of subsection (4) of section
27 985.35, Florida Statutes, is amended to read:

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

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

34 (a) Upon withholding adjudication of delinquency, the court
35 may place the child in a probation program under the supervision
36 of the department or under the supervision of any other person
37 or agency specifically authorized and appointed by the court.
38 The court may, as a condition of the program, impose as a
39 penalty component restitution in money or in kind to be made by
40 the child and the child's parent or guardian as provided in s.
41 985.437, 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. Present subsection (5) of section 985.437,
48 Florida Statutes, is renumbered as subsection (7), subsections
49 (1), (2), and (4) are amended, and new subsections (5) and (6)
50 are added 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

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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 for
76 restitution under this section if:

77 (a) After a hearing, the court finds that it is the child's
78 first referral to the delinquency system and ~~A finding by the~~
79 ~~court, after a hearing,~~ that the parent or guardian has made
80 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 and parental

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

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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.