

By Senator Oelrich

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1 A bill to be entitled

2 An act relating to restitution; amending s. 775.089, F.S.;

3 requiring that court-ordered restitution by a defendant to

4 the victim be paid before any other obligation ordered by

5 the court; requiring that the court state its reasons if

6 it provides for any other priority; requiring an equal

7 distribution of restitution among multiple victims;

8 requiring the Department of Corrections to collect

9 restitution from offenders under its supervision in

10 certain circumstances; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (1) and (5) of section 775.089,

15 Florida Statutes, are amended to read:

16 775.089 Restitution.--

17 (1)(a) In addition to any punishment, the court shall order

18 the defendant to make restitution to the victim for:

19 1. Damage or loss caused directly or indirectly by the

20 defendant's offense; and

21 2. Damage or loss related to the defendant's criminal

22 episode,

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24 unless it finds clear and compelling reasons not to order such

25 restitution. Restitution may be monetary or nonmonetary

26 restitution. The court shall make the payment of restitution a

27 condition of probation in accordance with s. 948.03. An order

28 requiring the defendant to make restitution to a victim does not

29 remove or diminish the requirement that the court order payment

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30 to the Crimes Compensation Trust Fund pursuant to chapter 960.
31 Payment of an award by the Crimes Compensation Trust Fund shall
32 create an order of restitution to the Crimes Compensation Trust
33 Fund, unless specifically waived in accordance with subparagraph
34 (b)1.

35 (b)1. If the court does not order restitution, or orders
36 restitution of only a portion of the damages, as provided in this
37 section, it shall state on the record in detail the reasons
38 therefor.

39 2. An order of restitution entered as part of a plea
40 agreement is as definitive and binding as any other order of
41 restitution, and a statement to such effect must be made part of
42 the plea agreement. A plea agreement may contain provisions that
43 order restitution relating to criminal offenses committed by the
44 defendant to which the defendant did not specifically enter a
45 plea.

46 (c) The term "victim" as used in this section and in any
47 provision of law relating to restitution means each person who
48 suffers property damage or loss, monetary expense, or physical
49 injury or death as a direct or indirect result of the defendant's
50 offense or criminal episode, and also includes the victim's
51 estate if the victim is deceased, and the victim's next of kin if
52 the victim is deceased as a result of the offense.

53 (d) If the court orders that the defendant make restitution
54 to the victim, the restitution owed shall take priority and be
55 paid before any other obligation of the defendant which is
56 ordered by the court. If the court places priority for any other
57 obligation above restitution to the victim, it must state on the
58 record in detail the reasons therefor. If the court orders the

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59 defendant to make restitution to more than one victim, the
60 payment shall be distributed to each victim equally.

61 (5) An order of restitution may be enforced by the state,
62 or by a victim named in the order to receive the restitution, in
63 the same manner as a judgment in a civil action. The outstanding
64 unpaid amount of the order of restitution bears interest in
65 accordance with s. 55.03, and, when properly recorded, becomes a
66 lien on real estate owned by the defendant. If the court reduces
67 the restitution order to a judgment in a civil action, the
68 Department of Corrections shall collect the restitution while the
69 offender is incarcerated or under the department's supervision.
70 If civil enforcement is necessary, the defendant shall be liable
71 for costs and attorney's fees incurred by the victim in enforcing
72 the order.

73 Section 2. This act shall take effect July 1, 2008.