

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Eagle offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove lines 19-60 and insert:

7 Section 1. Paragraph (a) of subsection (4) of section
 8 985.35, Florida Statutes, is amended to read:

9 985.35 Adjudicatory hearings; withheld adjudications;
 10 orders of adjudication.—

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

16 (a) Upon withholding adjudication of delinquency, the
 17 court may place the child in a probation program under the

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18 supervision of the department or under the supervision of any
19 other person or agency specifically authorized and appointed by
20 the court. The court may, as a condition of the program, impose
21 as a penalty component restitution in money or in kind to be
22 made by the child and the child's parent or guardian as defined
23 in s. 985.437, community service, a curfew, urine monitoring,
24 revocation or suspension of the driver's license of the child,
25 or other nonresidential punishment appropriate to the offense,
26 and may impose as a rehabilitative component a requirement of
27 participation in substance abuse treatment, or school or other
28 educational program attendance.

29 Section 2. Subsection (5) of section 985.437, Florida
30 Statutes, is renumbered as subsection (7), subsections (1), (2),
31 and (4) are amended, and new subsections (5) and (6) are added
32 to that section, to read:

33 985.437 Restitution.—

34 (1) Notwithstanding whether adjudication is imposed or
35 withheld, the court that has jurisdiction over a ~~an adjudicated~~
36 ~~delinquent~~ child may, by an order stating the facts upon which a
37 determination of a sanction and rehabilitative program was made
38 at the disposition hearing, order the child and the child's
39 parent or guardian to make restitution in the manner provided in
40 this section. This order shall be part of the child's probation
41 program to be implemented by the department or, in the case of a
42 committed child, as part of the community-based sanctions

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43 ordered by the court at the disposition hearing or before the
44 child's release from commitment.

45 (2) If the court orders restitution, the court shall ~~may~~
46 order the child and the child's parent or guardian to make
47 restitution in money, through a promissory note ~~assigned by the~~
48 ~~child's parent or guardian~~, or in kind for any damage or loss
49 caused by the child's offense in a reasonable amount or manner
50 to be determined by the court. When restitution is ordered by
51 the court, the amount of restitution may not exceed an amount
52 the child and the parent or guardian could reasonably be
53 expected to pay or make. If the child and the child's parent or
54 guardian are unable to pay the restitution in one lump-sum
55 payment, the court may set up a payment plan that reflects their
56 ability to pay the restitution amount.

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

59 (a) After a hearing, the court finds that it is the
60 child's first referral to the delinquency system and ~~A finding~~
61 ~~by the court, after a hearing,~~ that the parent or guardian has
62 made diligent and good faith efforts to prevent the child from
63 engaging in delinquent acts; or

64 (b) The victim entitled to restitution as a result of
65 damage or loss caused by the child's offense is that child's
66 parent or guardian absolves the parent or guardian of liability
67 ~~for restitution under this section.~~

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68 (5) Notwithstanding circumstances where one parent or
69 guardian has sole parental responsibility of the child, the
70 court has the authority to order both parents or guardians
71 liable for the restitution associated with the child's case.

72 (6) For purposes of this section, the Department of
73 Children and Families, a foster parent with whom the child is
74 placed, or the community-based care lead agency supervising the
75 placement of the child pursuant to a contract with the
76 Department of Children and Families are not considered a
77 guardian responsible for restitution for the delinquent acts of
78 a child who is found to be dependent as defined in s. 39.01(5).

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83 **T I T L E A M E N D M E N T**

84 Remove lines 3-9 and insert:

85 amending s. 985.35, F.S.; conforming language to changes made in
86 the act; amending s. 985.437, F.S.; requiring a child's parent
87 or guardian, in addition to the child, to make restitution for
88 damage or loss caused by the child's offense; providing for
89 payment plans in certain circumstances; authorizing the parent
90 or guardian to be absolved of liability for restitution in
91 certain circumstances; providing the court may order both
92 parents or guardians liable for the child's restitution

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93 | regardless of one parent having sole parental responsibility;

94 | specifying that the Department of

95 |