

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 both parents or guardians liable for
12 the child's restitution regardless of one parent or
13 guardian having sole parental responsibility;
14 specifying that the Department of Children and
15 Families, foster parents, and specified agencies
16 contracted with the department are not guardians for
17 purposes of restitution; amending s. 985.513, F.S.;
18 removing duplicative provisions authorizing the court
19 to require a parent or guardian to be responsible for
20 any restitution ordered against the child; providing
21 an effective date.

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

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

27 985.35 Adjudicatory hearings; withheld adjudications;
28 orders of adjudication.—

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

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

77 (a) After a hearing, the court finds that it is the
 78 child's first referral to the delinquency system and ~~A finding~~

79 ~~by the court, after a hearing,~~ that the parent or guardian has
 80 made 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 order both parents or guardians liable
 87 for restitution associated with the child's care regardless of
 88 whether one parent or guardian has sole parental 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 is not considered a guardian
 94 responsible for restitution for the delinquent acts of a child
 95 who is found to be dependent as defined in s. 39.01(15).

96 Section 3. Subsection (1) of section 985.513, Florida
 97 Statutes, is amended to read:

98 985.513 Powers of the court over parent or guardian at
 99 disposition.—

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

104 ~~(a)~~ order the child's parent or guardian, together with

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

112 ~~(b) Order the parent or guardian to make restitution in~~
113 ~~money or in kind for any damage or loss caused by the child's~~
114 ~~offense. The court may also require the child's parent or legal~~
115 ~~guardian to be responsible for any restitution ordered against~~
116 ~~the child, as provided under s. 985.437. The court shall~~
117 ~~determine a reasonable amount or manner of restitution, and~~
118 ~~payment shall be made to the clerk of the circuit court as~~
119 ~~provided in s. 985.437. The court may retain jurisdiction, as~~
120 provided under s. 985.0301, over the child and the child's
121 parent or legal guardian whom the court has ordered to pay
122 restitution until the restitution order is satisfied or the
123 court orders otherwise.

124 Section 4. This act shall take effect July 1, 2015.