

By Senator Detert

28-00300-15

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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 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.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
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 petition

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30 has committed a delinquent act or violation of law, it may, in  
31 its discretion, enter an order stating the facts upon which its  
32 finding is based but withholding adjudication of delinquency.

33 (a) Upon withholding adjudication of delinquency, the court  
34 may place the child in a probation program under the supervision  
35 of the department or under the supervision of any other person  
36 or agency specifically authorized and appointed by the court.  
37 The court may, as a condition of the program, impose as a  
38 penalty component restitution in money or in kind to be made by  
39 the child and the child's parent or guardian as provided in s.  
40 985.437, community service, a curfew, urine monitoring,  
41 revocation or suspension of the driver license of the child, or  
42 other nonresidential punishment appropriate to the offense, and  
43 may impose as a rehabilitative component a requirement of  
44 participation in substance abuse treatment, or school or other  
45 educational program attendance.

46 Section 2. Present subsection (5) of section 985.437,  
47 Florida Statutes, is renumbered as subsection (7), subsections  
48 (1), (2), and (4) are amended, and new subsections (5) and (6)  
49 are added to that section, to read:

50 985.437 Restitution.—

51 (1) Regardless of whether adjudication is imposed or  
52 withheld, the court that has jurisdiction over a ~~an adjudicated~~  
53 ~~delinquent~~ child may, by an order stating the facts upon which a  
54 determination of a sanction and rehabilitative program was made  
55 at the disposition hearing, order the child and the child's  
56 parent or guardian to make restitution in the manner provided in  
57 this section. This order shall be part of the child's probation  
58 program to be implemented by the department or, in the case of a

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59 committed child, as part of the community-based sanctions  
60 ordered by the court at the disposition hearing or before the  
61 child's release from commitment.

62 (2) If the court orders restitution, the court shall ~~may~~  
63 order the child and the child's parent or guardian to make  
64 restitution in money, through a promissory note ~~assigned by the~~  
65 ~~child's parent or guardian,~~ or in kind for any damage or loss  
66 caused by the child's offense in a reasonable amount or manner  
67 to be determined by the court. When restitution is ordered by  
68 the court, the amount of restitution may not exceed an amount  
69 the child and the parent or guardian could reasonably be  
70 expected to pay or make. If the child and the child's parent or  
71 guardian are unable to pay the restitution in one lump-sum  
72 payment, the court may set up a payment plan that reflects their  
73 ability to pay the restitution amount.

74 (4) The parent or guardian may be absolved of liability for  
75 restitution under this section if:

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

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

85 (5) The court may order both parents or guardians liable  
86 for restitution associated with the child's care regardless of  
87 whether one parent or guardian has sole parental responsibility.

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88           (6) For purposes of this section, the Department of  
89 Children and Families, a foster parent with whom the child is  
90 placed, or the community-based care lead agency supervising the  
91 placement of the child pursuant to a contract with the  
92 Department of Children and Families is not considered a guardian  
93 responsible for restitution for the delinquent acts of a child  
94 who is found to be dependent as defined in s. 39.01(15).

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

97           985.513 Powers of the court over parent or guardian at  
98 disposition.—

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

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

111           ~~(b) Order the parent or guardian to make restitution in~~  
112 ~~money or in kind for any damage or loss caused by the child's~~  
113 ~~offense. The court may also require the child's parent or legal~~  
114 ~~guardian to be responsible for any restitution ordered against~~  
115 ~~the child, as provided under s. 985.437. The court shall~~  
116 ~~determine a reasonable amount or manner of restitution, and~~

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117 ~~payment shall be made to the clerk of the circuit court as~~  
118 ~~provided in s. 985.437.~~ The court may retain jurisdiction, as  
119 provided under s. 985.0301, over the child and the child's  
120 parent or legal guardian whom the court has ordered to pay  
121 restitution until the restitution order is satisfied or the  
122 court orders otherwise.

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