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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
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The Committee on Criminal Justice (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 985.437, Florida Statutes, is amended to
read:

985.437 Restitution.—

(1) Regardless of whether adjudication is imposed or
withheld, the court that has jurisdiction over a ~~an adjudicated~~
~~delinquent~~ child may, by an order stating the facts upon which a



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11 determination of a sanction and rehabilitative program was made
12 at the disposition hearing, order the child and the child's
13 parent or guardian to make restitution in the manner provided in
14 this section. This order shall be part of the child's probation
15 program to be implemented by the department or, in the case of a
16 committed child, as part of the community-based sanctions
17 ordered by the court at the disposition hearing or before the
18 child's release from commitment.

19 (2) If the court orders restitution, the court shall ~~may~~
20 order the child and the child's parent or guardian, as provided
21 under s. 985.513, to make restitution in money, through a
22 promissory note signed by the child and cosigned by the child's
23 parent or guardian, or in kind for any damage or loss caused by
24 the child's offense in a reasonable amount or manner to be
25 determined by the court. When restitution is ordered by the
26 court, the amount of restitution may not exceed an amount the
27 child and the child's parent or guardian could reasonably be
28 expected to pay or make. If the child and the child's parent or
29 guardian are unable to make restitution in kind or pay the
30 restitution in one lump sum, the court may establish a payment
31 plan based on the child's and the child's parent or guardian's
32 ability to pay the restitution amount.

33 (3) The clerk of the circuit court shall be the receiving
34 and dispensing agent. In such case, the court shall order the
35 child and ~~or~~ the child's parent or guardian to pay to the office
36 of the clerk of the circuit court an amount not to exceed the
37 actual cost incurred by the clerk as a result of receiving and
38 dispensing restitution payments. The clerk shall notify the
39 court if restitution is not made or if a restitution payment



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40 plan is not followed, and the court shall take any further
41 action that is necessary against the child and ~~or~~ the child's
42 parent or guardian.

43 ~~(4) A finding by the court, after a hearing, that the~~
44 ~~parent or guardian has made diligent and good faith efforts to~~
45 ~~prevent the child from engaging in delinquent acts absolves the~~
46 ~~parent or guardian of liability for restitution under this~~
47 ~~section.~~

48 ~~(5)~~ The court may retain jurisdiction over a child and the
49 child's parent or legal guardian whom the court has ordered to
50 pay restitution until the restitution order is satisfied or
51 until the court orders otherwise, as provided in s. 985.0301.

52 Section 2. Section 985.513, Florida Statutes, is amended to
53 read:

54 985.513 Powers of the court over parent or guardian at
55 disposition.—

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

60 ~~(a)~~ order the child's parent or guardian, together with the
61 child, to render community service in a public service program
62 or to participate in a community work project. In addition to
63 the sanctions imposed on the child, the court may order the
64 child's parent or guardian to perform community service if the
65 court finds that the child's parent or guardian did not make a
66 diligent and good faith effort to prevent the child from
67 engaging in delinquent acts.

68 (2) Regardless of whether adjudication is imposed or



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69 withheld, if the court orders restitution under s. 985.437, the
70 court shall order the child and the child's parent or guardian
71 to make restitution in money, through a promissory note signed
72 by the child and cosigned by the child's parent or guardian, or
73 in kind for any damage or loss caused by the child's offense.

74 ~~(b) Order the parent or guardian to make restitution in~~
75 ~~money or in kind for any damage or loss caused by the child's~~
76 ~~offense. The court may also require the child's parent or legal~~
77 ~~guardian to be responsible for any restitution ordered against~~
78 ~~the child, as provided under s. 985.437. The court shall~~
79 ~~determine a reasonable amount or manner of restitution, and~~
80 ~~payment shall be made to the clerk of the circuit court as~~
81 ~~provided in s. 985.437. The court may retain jurisdiction, as~~
82 ~~provided under s. 985.0301, over the child and the child's~~
83 ~~parent or legal guardian whom the court has ordered to pay~~
84 ~~restitution until the restitution order is satisfied or the~~
85 ~~court orders otherwise.~~

86 (a) The child's parent or guardian may be absolved of
87 liability for restitution ordered under this chapter if:

88 1. After a hearing, the court finds that it is the child's
89 first referral to the delinquency system and that the child's
90 parent or guardian has made diligent and good faith efforts to
91 prevent the child from engaging in delinquent acts;

92 2. The victim entitled to restitution is the child's parent
93 or guardian; or

94 3. The parent or guardian did not, at any time relevant to
95 the proceedings under this chapter, have custody of or parental
96 responsibility for the child.

97 (b) For purposes of this section, the Department of



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98 Children and Families, a foster parent with whom the child is
99 placed, the community-based care lead agency supervising the
100 placement of the child pursuant to a contract with the
101 Department of Children and Families, or a facility licensed or
102 registered under s. 409.175 or s. 409.176 is not considered a
103 parent guardian responsible for restitution for the delinquent
104 acts of a child who is found to be dependent as defined in s.
105 39.01.

106 ~~(3)~~(2) Notwithstanding whether adjudication is imposed or
107 withheld, the court may order the natural parents or legal
108 custodian or guardian of a child who is found to have committed
109 a delinquent act to participate in family counseling and other
110 professional counseling activities deemed necessary for the
111 rehabilitation of the child or to enhance their ability to
112 provide the child with adequate support, guidance, and
113 supervision. The court may also order that the parent,
114 custodian, or guardian support the child and participate with
115 the child in fulfilling a court-imposed sanction. In addition,
116 the court may use its contempt powers to enforce a court-imposed
117 sanction.

118 Section 3. This act shall take effect October 1, 2020.

119
120 ===== T I T L E A M E N D M E N T =====

121 And the title is amended as follows:

122 Delete everything before the enacting clause
123 and insert:

124 A bill to be entitled
125 An act relating to restitution for juvenile offenses;
126 amending s. 985.437, F.S.; providing a uniform set of



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127 conditions of restitution for juvenile offenses,
128 regardless of whether adjudication is imposed or
129 withheld; requiring a child's parent or guardian, in
130 addition to the child, to make restitution for damage
131 or loss caused by the child's offense; authorizing the
132 court to establish a payment plan in certain
133 circumstances; requiring notification to the court if
134 a payment plan is not followed; removing duplicative
135 provisions; amending s. 985.513, F.S.; providing a
136 uniform set of conditions for jurisdiction over a
137 child's parent or guardian concerning restitution,
138 regardless of whether adjudication is imposed or
139 withheld; authorizing the child's parent or guardian
140 to be absolved of liability for restitution in certain
141 circumstances; authorizing the court to order
142 restitution to be paid only by the parents or
143 guardians who have concurrent custody and parental
144 responsibility; providing that the Department of
145 Children and Families, foster parents, and specified
146 facilities are agencies are not considered parents or
147 guardians for purposes of restitution; providing an
148 effective date.