

By the Committee on Criminal Justice; and Senator Perry

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1 A bill to be entitled
2 An act relating to restitution for juvenile offenses;
3 amending s. 985.437, F.S.; providing a uniform set of
4 conditions of restitution for juvenile offenses,
5 regardless of whether adjudication is imposed or
6 withheld; requiring a child's parent or guardian, in
7 addition to the child, to make restitution for damage
8 or loss caused by the child's offense; authorizing the
9 court to establish a payment plan under certain
10 circumstances; requiring the clerk to notify the court
11 if a payment plan is not followed; removing
12 duplicative provisions; amending s. 985.513, F.S.;
13 providing a uniform set of conditions for jurisdiction
14 over a child's parent or guardian concerning
15 restitution, regardless of whether adjudication is
16 imposed or withheld; authorizing the child's parent or
17 guardian to be absolved of liability for restitution
18 under certain circumstances; providing that the
19 Department of Children and Families, foster parents,
20 and specified facilities and agencies are not
21 considered parents or guardians for purposes of
22 restitution; providing an effective date.

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

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

28 985.437 Restitution.—

29 (1) Regardless of whether adjudication is imposed or

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30 withheld, the court that has jurisdiction over a ~~an adjudicated~~
31 ~~delinquent~~ child may, by an order stating the facts upon which a
32 determination of a sanction and rehabilitative program was made
33 at the disposition hearing, order the child and the child's
34 parent or guardian to make restitution in the manner provided in
35 this section. This order shall be part of the child's probation
36 program to be implemented by the department or, in the case of a
37 committed child, as part of the community-based sanctions
38 ordered by the court at the disposition hearing or before the
39 child's release from commitment.

40 (2) If the court orders restitution, the court shall ~~may~~
41 order the child and the child's parent or guardian, as provided
42 under s. 985.513, to make restitution in money, through a
43 promissory note signed by the child and cosigned by the child's
44 parent or guardian, or in kind for any damage or loss caused by
45 the child's offense in a reasonable amount or manner to be
46 determined by the court. When restitution is ordered by the
47 court, the amount of restitution may not exceed an amount the
48 child and the child's parent or guardian could reasonably be
49 expected to pay or make. If the child and the child's parent or
50 guardian are unable to make restitution in kind or pay the
51 restitution in one lump sum, the court may establish a payment
52 plan based on the child's and the child's parent or guardian's
53 ability to pay the restitution amount.

54 (3) The clerk of the circuit court shall be the receiving
55 and dispensing agent. In such case, the court shall order the
56 child and ~~or~~ the child's parent or guardian to pay to the office
57 of the clerk of the circuit court an amount not to exceed the
58 actual cost incurred by the clerk as a result of receiving and

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59 dispensing restitution payments. The clerk shall notify the
60 court if restitution is not made or if a restitution payment
61 plan is not followed, and the court shall take any further
62 action that is necessary against the child and ~~or~~ the child's
63 parent or guardian.

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

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

73 Section 2. Section 985.513, Florida Statutes, is amended to
74 read:

75 985.513 Powers of the court over parent or guardian at
76 disposition.—

77 (1) The court that has jurisdiction over an adjudicated
78 delinquent child may, by an order stating the facts upon which a
79 determination of a sanction and rehabilitative program was made
80 at the disposition hearing, ÷

81 ~~(a)~~ order the child's parent or guardian, together with the
82 child, to render community service in a public service program
83 or to participate in a community work project. In addition to
84 the sanctions imposed on the child, the court may order the
85 child's parent or guardian to perform community service if the
86 court finds that the child's parent or guardian did not make a
87 diligent and good faith effort to prevent the child from

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88 engaging in delinquent acts.

89 (2) Regardless of whether adjudication is imposed or
90 withheld, if the court orders restitution under s. 985.437, the
91 court shall order the child and the child's parent or guardian
92 to make restitution in money, through a promissory note signed
93 by the child and cosigned by the child's parent or guardian, or
94 in kind for any damage or loss caused by the child's offense.

95 ~~(b) Order the parent or guardian to make restitution in~~
96 ~~money or in kind for any damage or loss caused by the child's~~
97 ~~offense. The court may also require the child's parent or legal~~
98 ~~guardian to be responsible for any restitution ordered against~~
99 ~~the child, as provided under s. 985.437. The court shall~~
100 determine a reasonable amount or manner of restitution, and
101 payment shall be made to the clerk of the circuit court as
102 provided in s. 985.437. The court may retain jurisdiction, as
103 provided under s. 985.0301, over the child and the child's
104 parent or legal guardian whom the court has ordered to pay
105 restitution until the restitution order is satisfied or the
106 court orders otherwise.

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

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

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

115 3. The parent or guardian did not, at any time relevant to
116 the proceedings under this chapter, have custody of or parental

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117 responsibility for the child; or

118 4. After a hearing, the court finds that the child has
119 attained the age of 18 years and the child's parent or guardian
120 has made good faith efforts to comply with the restitution
121 order.

122 (b) For purposes of this section, the Department of
123 Children and Families, a foster parent with whom the child is
124 placed, the community-based care lead agency supervising the
125 placement of the child pursuant to a contract with the
126 Department of Children and Families, or a facility licensed or
127 registered under s. 409.175 or s. 409.176 is not considered a
128 parent or guardian responsible for restitution for the
129 delinquent acts of a child who is found to be dependent as
130 defined in s. 39.01.

131 (3)(2) Notwithstanding whether adjudication is imposed or
132 withheld, the court may order the natural parents or legal
133 custodian or guardian of a child who is found to have committed
134 a delinquent act to participate in family counseling and other
135 professional counseling activities deemed necessary for the
136 rehabilitation of the child or to enhance their ability to
137 provide the child with adequate support, guidance, and
138 supervision. The court may also order that the parent,
139 custodian, or guardian support the child and participate with
140 the child in fulfilling a court-imposed sanction. In addition,
141 the court may use its contempt powers to enforce a court-imposed
142 sanction.

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