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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2021	.	
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The Committee on Judiciary (Harrell) recommended the following:

1           **Senate ~~Substitute for Amendment (567642)~~ (with title**  
2 **amendment)**

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4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Subsection (7) of section 775.089, Florida  
7 Statutes, is amended to read:

8           775.089 Restitution.—

9           (7)

10           (a) While the primary purpose of restitution is to  
11 compensate the victim, it also serves the rehabilitative and



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12 deterrent goals of the criminal justice system.

13 (b) Restitution must be determined on a fair market value  
14 basis unless the state, victim, or defendant shows that using  
15 another basis, including but not limited to replacement cost,  
16 purchase price less depreciation, or actual cost of repair, is  
17 equitable and better furthers the purposes of restitution.

18 (c) Any dispute as to the proper amount or type of  
19 restitution shall be resolved by the court by the preponderance  
20 of the evidence. The court may consider hearsay evidence for  
21 this purpose. The burden of demonstrating the amount of the loss  
22 sustained by a victim as a result of the offense is on the state  
23 attorney. The burden of demonstrating the present financial  
24 resources and the absence of potential future financial  
25 resources of the defendant and the financial needs of the  
26 defendant and his or her dependents is on the defendant. The  
27 burden of demonstrating such other matters as the court deems  
28 appropriate is upon the party designated by the court as justice  
29 requires.

30 Section 2. Subsection (2) of section 985.437, Florida  
31 Statutes, is amended to read:

32 985.437 Restitution.—

33 (2)

34 (a) While the purpose of restitution is to compensate the  
35 victim, it also serves the rehabilitative and deterrent goals of  
36 the juvenile justice system.

37 (b) The court may order the child to make restitution in  
38 money, through a promissory note cosigned by the child's parent  
39 or guardian, or in kind for any damage or loss caused by the  
40 child's offense in a reasonable amount or manner to be



41 determined by the court. Restitution must be determined on a  
42 fair market value basis unless the state, victim, or child shows  
43 that using another basis, including but not limited to  
44 replacement cost, purchase price less depreciation, or actual  
45 cost of repair, is equitable and better furthers the purposes of  
46 restitution. The court may consider hearsay evidence for this  
47 purpose.

48 (c) When restitution is ordered by the court, the amount of  
49 restitution may not exceed an amount the child and the parent or  
50 guardian could reasonably be expected to pay or make.

51 Section 3. This act shall take effect July 1, 2021.

52  
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete everything before the enacting clause  
56 and insert:

57 A bill to be entitled  
58 An act relating to restitution; amending s. 775.089,  
59 F.S.; providing for the purposes of restitution in a  
60 criminal proceeding; specifying the standards for  
61 valuation of a restitution order; allowing hearsay  
62 testimony regarding valuation of a restitution award;  
63 amending s. 985.437, F.S.; providing for the purposes  
64 of restitution in a delinquency proceeding; specifying  
65 the standards for valuation of a restitution order;  
66 allowing hearsay testimony regarding valuation of a  
67 restitution award; providing an effective date.