



567642

LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

775.089 Restitution.—

(7)

(a) While the primary purpose of restitution is to
compensate the victim, it also serves the rehabilitative,
deterrent, and retributive goals of the criminal justice system.



567642

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

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

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

31 985.437 Restitution.—

32 (2)

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

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



567642

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

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

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

51
52 ===== T I T L E A M E N D M E N T =====

53 And the title is amended as follows:

54 Delete everything before the enacting clause
55 and insert:

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