

By Senator Harrell

25-00662-21

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1 A bill to be entitled
2 An act relating to restitution; amending s. 775.089,
3 F.S.; specifying that courts are not bound by fair
4 market value in determining restitution amounts;
5 authorizing courts to exercise discretion in
6 furthering the purposes of restitution; providing an
7 effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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

13 775.089 Restitution.—

14 (7) Any dispute as to the proper amount or type of
15 restitution shall be resolved by the court by the preponderance
16 of the evidence. The court is not bound by fair market value as
17 the sole standard in determining restitution amounts, but rather
18 may exercise such discretion as required to further the purposes
19 of restitution, including consideration of hearsay. The burden
20 of demonstrating the amount of the loss sustained by a victim as
21 a result of the offense is on the state attorney. The burden of
22 demonstrating the present financial resources and the absence of
23 potential future financial resources of the defendant and the
24 financial needs of the defendant and his or her dependents is on
25 the defendant. The burden of demonstrating such other matters as
26 the court deems appropriate is upon the party designated by the
27 court as justice requires.

28 Section 2. This act shall take effect July 1, 2021.