

2021354er

1  
2 An act relating to restitution; amending s. 775.089,  
3 F.S.; providing for the purposes of restitution in a  
4 criminal proceeding; specifying the standards for  
5 valuation of a restitution order; authorizing a court  
6 to consider hearsay evidence regarding valuation of a  
7 restitution award under certain circumstances;  
8 amending s. 985.437, F.S.; providing for the purposes  
9 of restitution in a delinquency proceeding; specifying  
10 the standards for valuation of a restitution order;  
11 authorizing a court to consider hearsay evidence  
12 regarding valuation of a restitution award under  
13 certain circumstances; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Subsection (7) of section 775.089, Florida  
18 Statutes, is amended to read:

19 775.089 Restitution.—

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

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

28 (c) Any dispute as to the proper amount or type of  
29 restitution shall be resolved by the court by the preponderance

2021354er

30 of the evidence. The court may consider hearsay evidence for  
31 this purpose, provided it finds that the hearsay evidence has a  
32 minimal indicia of reliability. The burden of demonstrating the  
33 amount of the loss sustained by a victim as a result of the  
34 offense is on the state attorney. The burden of demonstrating  
35 the present financial resources and the absence of potential  
36 future financial resources of the defendant and the financial  
37 needs of the defendant and his or her dependents is on the  
38 defendant. The burden of demonstrating such other matters as the  
39 court deems appropriate is upon the party designated by the  
40 court as justice requires.

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

43 985.437 Restitution.—

44 (2) (a) While the primary purpose of restitution is to  
45 compensate the victim, it also serves the rehabilitative and  
46 deterrent goals of the juvenile justice system.

47 (b) The court may order the child to make restitution in  
48 money, through a promissory note cosigned by the child's parent  
49 or guardian, or in kind for any damage or loss caused by the  
50 child's offense in a reasonable amount or manner to be  
51 determined by the court. Restitution must be determined on a  
52 fair market value basis unless the state, victim, or child shows  
53 that using another basis, including, but not limited to,  
54 replacement cost, purchase price less depreciation, or actual  
55 cost of repair, is equitable and better furthers the purposes of  
56 restitution. The court may consider hearsay evidence for this  
57 purpose, provided it finds that the hearsay evidence has a  
58 minimal indicia of reliability.

2021354er

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

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