

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Criminal Justice & Public
2 Safety Subcommittee

3 Representative Mooney offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 775.089 Restitution.—

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

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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)(a) While the primary purpose of restitution is to
34 compensate the victim, it also serves the rehabilitative and
35 deterrent 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

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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
48 of restitution may not exceed an amount the child and the parent
49 or guardian could reasonably be expected to pay or make.

50 Section 3. This act shall take effect July 1, 2021..
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53 **T I T L E A M E N D M E N T**

54 Remove everything before the enacting clause and insert:
55 An act relating to restitution; amending s. 775.089, F.S.;
56 providing for the purposes of restitution in a criminal
57 proceeding; specifying the standards for valuation of a
58 restitution order; authorizing a court to consider hearsay
59 evidence regarding valuation of a restitution award; amending s.
60 985.437, F.S.; providing for the purposes of restitution in a
61 delinquency proceeding; specifying the standards for valuation
62 of a restitution order; authorizing a court to consider hearsay
63 evidence regarding valuation of a restitution award; providing
64 an effective date.