

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

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

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

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

42 |       985.437 Restitution.—

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

46 |       (b) The court may order the child to make restitution in  
47 | money, through a promissory note cosigned by the child's parent  
48 | or guardian, or in kind for any damage or loss caused by the  
49 | child's offense in a reasonable amount or manner to be  
50 | determined by the court. Restitution must be determined on a

51 fair market value basis unless the state, victim, or child shows  
52 that using another basis, including, but not limited to,  
53 replacement cost, purchase price less depreciation, or actual  
54 cost of repair, is equitable and better furthers the purposes of  
55 restitution. The court may consider hearsay evidence for this  
56 purpose.

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

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