

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 under certain circumstances; amending s.
 9 985.437, F.S.; declaring the purposes of restitution
 10 in a delinquency proceeding; specifying the standards
 11 for valuation of a restitution order; authorizing a
 12 court to consider hearsay evidence regarding valuation
 13 of a restitution award under certain circumstances;
 14 providing an effective date.

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

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

20 775.089 Restitution.—

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

24 (b) Restitution must be determined on a fair market value
 25 basis unless the state, victim, or defendant shows that using

26 | another basis, including, but not limited to, replacement cost,
27 | purchase price less depreciation, or actual cost of repair, is
28 | equitable and better furthers the purposes of restitution.

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

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

44 | 985.437 Restitution.—

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

48 | (b) The court may order the child to make restitution in
49 | money, through a promissory note cosigned by the child's parent
50 | or guardian, or in kind for any damage or loss caused by the

51 child's offense in a reasonable amount or manner to be
52 determined by the court. Restitution must be determined on a
53 fair market value basis unless the state, victim, or child shows
54 that using another basis, including, but not limited to,
55 replacement cost, purchase price less depreciation, or actual
56 cost of repair, is equitable and better furthers the purposes of
57 restitution. The court may consider hearsay evidence for this
58 purpose, provided it finds that the hearsay evidence has a
59 minimal indicia of reliability.

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

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