

FIRST REGULAR SESSION

# SENATE BILL NO. 83

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SINGLETON.

Pre-filed December 1, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0364S.02I

## AN ACT

To repeal sections 211.185 and 537.045, RSMo 2000, relating to victims of certain offenses, and to enact in lieu thereof two new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 211.185 and 537.045, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 211.185 and 537.045, to read as follows:

211.185. 1. In addition to the court's authority to issue an order for the child to make restitution or reparation for the damage or loss caused by his offense as provided in section 211.181, the court may enter a judgment of restitution against both the parent and the child pursuant to the provisions of this section if the court finds that the parent has failed to exercise reasonable parental discipline or authority to prevent the damage or loss and the child has:

(1) Stolen, damaged, destroyed, converted, unlawfully obtained, or substantially decreased the value of the property of another; or

(2) Inflicted personal injury on another, requiring the injured person to incur medical, dental, hospital, funeral, or burial expenses.

2. The court may order both the parent and the child to make restitution to:

(1) The victim;

(2) Any governmental entity; or

(3) A third-party payor, including an insurer, that has made payment to the victim to compensate the victim for a property loss or a pecuniary loss under subdivisions (1) and (2) of subsection 1 of this section.

3. Restitution payments to the victim have priority over restitution payments to a

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

third-party payor. If the victim has been compensated for the victim's loss by a third-party payor, the court may order restitution payments to the third-party payor in the amount that the third-party payor compensated the victim.

4. Payment of restitution to a victim under this section has priority over payment of restitution to any governmental entity.

5. Considering the age and circumstances of a child, the court may order the child to make restitution to the wronged person personally.

6. A restitution hearing to determine the liability of the parent and the child shall be held not later than thirty days after the disposition hearing and may be extended by the court for good cause. In the restitution hearing, a written statement or bill for medical, dental, hospital, funeral, or burial expenses shall be prima facie evidence that the amount indicated on the written statement or bill represents a fair and reasonable charge for the services or materials provided. The burden of proving that the amount indicated on the written statement or bill is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

7. A judgment of restitution against a parent may not be entered unless the parent has been afforded a reasonable opportunity to be heard and to present appropriate evidence in his behalf. The parent shall be advised of his right to obtain counsel for representation at the hearing. A hearing under this section may be held as part of an adjudicatory or disposition hearing for the child.

8. The judgment may be enforced in the same manner as enforcing monetary judgments.

9. A judgment of restitution ordered pursuant to this section against a child and his parents shall not be a bar to a proceeding against the child and his parents pursuant to section 537.045, RSMo, or section 8.150, RSMo, for the balance of the damages not paid pursuant to this section. In no event, however, may the total restitution paid by the child and his parents pursuant to this section, section 8.150, RSMo, and section 537.045, RSMo, exceed **[four] twenty** thousand dollars.

10. The child may be ordered to work in a court-approved community service work site at a rate of compensation not to exceed minimum wage. The number of hours worked shall be reported to the juvenile officer and the compensation earned for these hours shall be used for the sole purpose of satisfying the judgment entered against the child in accordance with this section. Upon application by the juvenile officer made with the juvenile court's written approval, the clerk of the court of the circuit where the fund is deposited and where a judgment has been entered in accordance with this section shall pay the compensation earned by the child to the person in whose favor the judgment has been entered.

11. Notwithstanding any other provision of this section to the contrary, a judgment of restitution ordered pursuant to this section against a child may be executed upon after the child attains the age of eighteen years.

537.045. 1. The parent or guardian, excluding foster parents, of any unemancipated

minor, under eighteen years of age, in their care and custody, against whom judgment has been rendered for purposely marking upon, defacing or in any way damaging any property, shall be liable for the payment of that judgment up to an amount not to exceed **[two] twenty** thousand dollars, provided that the parent or guardian has been joined as a party defendant in the original action. The judgment provided in this subsection to be paid shall be paid to the owner of the property damaged, but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor for such damage for the balance of the judgment not paid by the parent or guardian.

2. The parent or guardian, excluding foster parents, of any unemancipated minor, under eighteen years of age, in their care and custody, against whom judgment has been rendered for purposely causing personal injury to any individual, shall be liable for the payment for that judgment up to an amount not to exceed **[two] twenty** thousand dollars, provided that the parent or guardian has been joined as a party defendant in the original action. The judgment provided in this subsection to be paid shall be paid to the person injured, but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor for such damage for the balance of the judgment not paid by the parent or guardian.

3. Upon rendering a judgment in any proceeding under this section, the judge may order the parent or guardian, and the minor who damaged the property or caused the personal injury, to work for the owner of the property damaged or the person injured in lieu of payment, if the parent, minor and the owner of the property damaged or the person injured are agreeable.

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