

SECOND REGULAR SESSION

HOUSE BILL NO. 1582

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BUCHHEIT-COURTWAY.

4122H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 211.185 and 537.045, RSMo, and to enact in lieu thereof two new sections relating to judgments against parents due to conduct of children.

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

Section A. Sections 211.185 and 537.045, RSMo, are repealed and two new sections
2 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
2 restitution or reparation for the damage or loss caused by his offense as provided in section
3 211.181, the court may enter a judgment of restitution against both the parent and the child
4 pursuant to the provisions of this section if the court finds that the parent has failed to exercise
5 reasonable parental discipline or authority to prevent the damage or loss and the child has:

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

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

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

11 (1) The victim;

12 (2) Any governmental entity; or

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

16 3. Restitution payments to the victim have priority over restitution payments to a
17 third-party payor. If the victim has been compensated for the victim's loss by a third-party

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 payor, the court may order restitution payments to the third-party payor in the amount that the
19 third-party payor compensated the victim.

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

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

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

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

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

39 9. A judgment of restitution ordered pursuant to this section against a child and his
40 parents shall not be a bar to a proceeding against the child and his parents pursuant to section
41 537.045 or section 8.150 for the balance of the damages not paid pursuant to this section. In
42 no event, however, may the total restitution paid by the child and his parents pursuant to this
43 section, section 8.150, and section 537.045 exceed ~~four~~ **ten** thousand dollars.

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

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

537.045. 1. The parent or guardian, excluding foster parents, of any unemancipated
2 minor, under eighteen years of age, in their care and custody, against whom judgment has
3 been rendered for purposely marking upon, defacing or in any way damaging any property,
4 shall be liable for the payment of that judgment up to an amount not to exceed ~~two~~ **five**
5 thousand dollars, provided that the parent or guardian has been joined as a party defendant in
6 the original action. The judgment provided in this subsection to be paid shall be paid to the
7 owner of the property damaged, but such payment shall not be a bar to any criminal action or
8 any proceeding against the unemancipated minor for such damage for the balance of the
9 judgment not paid by the parent or guardian.

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

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

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