

FIRST REGULAR SESSION

HOUSE BILL NO. 186

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CURTMAN (Sponsor), KELLEY (127), KOENIG, BAHR,
REHDER AND PARKINSON (Co-sponsors).

0851H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 8.150, 211.185, and 537.045, RSMo, and to enact in lieu thereof three new sections relating to parental liability for damages by a minor.

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

Section A. Sections 8.150, 211.185, and 537.045, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 8.150, 211.185, and 537.045, to read as follows:

8.150. No person shall write or scribble on the walls or other parts of the facilities, or mark the same with pictures or deface the same in any manner under the penalty of not more than five hundred dollars to be recovered by civil action, before the circuit court of Cole County, in the name of the state. If the offense is committed by a person under the age of eighteen years, he and his parent or guardian, as the case may be, are liable to the penalty to be recovered as above directed **unless the minor is no longer under the care and custody of his or her parent or guardian and is no longer living in the home of his or her parent or guardian, in which case the parent or guardian shall not be liable.**

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

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.

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

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

36 **8. A judgment of restitution against a parent shall not be entered under this section**
37 **if the child is no longer under the care and custody of his or her parent and is no longer**
38 **living in the home of his or her parent.**

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

40 [9.] 10. A judgment of restitution ordered pursuant to this section against a child and his
41 parents shall not be a bar to a proceeding against the child and his parents pursuant to section
42 537.045 or section 8.150 for the balance of the damages not paid pursuant to this section. In no
43 event, however, may the total restitution paid by the child and his parents pursuant to this
44 section, section 8.150, and section 537.045 exceed four thousand dollars.

45 [10.] 11. The child may be ordered to work in a court-approved community service work
46 site at a rate of compensation not to exceed minimum wage. The number of hours worked shall
47 be reported to the juvenile officer and the compensation earned for these hours shall be used for
48 the sole purpose of satisfying the judgment entered against the child in accordance with this
49 section. Upon application by the juvenile officer made with the juvenile court's written approval,
50 the clerk of the court of the circuit where the fund is deposited and where a judgment has been
51 entered in accordance with this section shall pay the compensation earned by the child to the
52 person in whose favor the judgment has been entered.

53 [11.] 12. Notwithstanding any other provision of this section to the contrary, a judgment
54 of restitution ordered pursuant to this section against a child may be executed upon after the child
55 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 been
3 rendered for purposely marking upon, defacing or in any way damaging any property, shall be
4 liable for the payment of that judgment up to an amount not to exceed two thousand dollars,
5 provided that the parent or guardian has been joined as a party defendant in the original action.
6 The judgment provided in this subsection to be paid shall be paid to the owner of the property
7 damaged, but such payment shall not be a bar to any criminal action or any proceeding against
8 the unemancipated minor for such damage for the balance of the judgment not paid by the parent
9 or guardian.

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

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

22 **4. No judgment shall be entered against a parent or guardian and no parent or**
23 **guardian shall be liable for the payment of any judgment entered under this section if the**
24 **minor is no longer under the care and custody of his or her parent or guardian and the**
25 **minor is no longer living in the home of his or her parent or guardian.**

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