

ENROLLED

HB 115

2015 Legislature

1  
 2 An act relating to sentencing; amending s. 775.089,  
 3 F.S.; revising the definition of the term "victim" to  
 4 include governmental entities and political  
 5 subdivisions in certain instances; creating ss. 838.23  
 6 and 839.27, F.S.; requiring the sentencing judge to  
 7 order restitution and a specified number of community  
 8 service work hours for violations of chapter 838,  
 9 F.S., relating to bribery and misuse of public office,  
 10 or chapter 839, F.S., relating to offenses by public  
 11 officers and employees; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15 Section 1. Paragraph (c) of subsection (1) of section  
 16 775.089, Florida Statutes, is amended to read:

17 775.089 Restitution.—

18 (1)

19 (c) The term "victim" as used in this section and in any  
 20 provision of law relating to restitution means:

21 1. Each person who suffers property damage or loss,  
 22 monetary expense, or physical injury or death as a direct or  
 23 indirect result of the defendant's offense or criminal episode,  
 24 and also includes the victim's estate if the victim is deceased,  
 25 and the victim's next of kin if the victim is deceased as a  
 26 result of the offense. The term includes governmental entities

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27 and political subdivisions, as those terms are defined in s.  
 28 11.45, when such entities are a direct victim of the defendant's  
 29 offense or criminal episode and not merely providing public  
 30 services in response to the offense or criminal episode.<sup>7</sup>

31 2. The term also includes ~~and~~ the victim's trade  
 32 association if the offense is a violation of s. 540.11(3)(a)3.  
 33 involving the sale, or possession for purposes of sale, of  
 34 physical articles and the victim has granted the trade  
 35 association written authorization to represent the victim's  
 36 interests in criminal legal proceedings and to collect  
 37 restitution on the victim's behalf. The restitution obligation  
 38 in this subparagraph ~~paragraph~~ relating to violations of s.  
 39 540.11(3)(a)3. applies only to physical articles and does not  
 40 apply to electronic articles or digital files that are  
 41 distributed or made available online. As used in this  
 42 subparagraph ~~paragraph~~, the term "trade association" means an  
 43 organization founded and funded by businesses that operate in a  
 44 specific industry to protect their collective interests.

45 Section 2. Section 838.23, Florida Statutes, is created to  
 46 read:

47 838.23 Restitution and community service.—A person who is  
 48 convicted of any offense in this chapter shall be ordered by the  
 49 sentencing judge to make restitution to the victim of the  
 50 offense if, after conducting a hearing, the judge finds that the  
 51 victim suffered an actual financial loss caused directly or  
 52 indirectly by the person's offense or an actual financial loss

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53 related to the person's criminal episode. A person who is  
54 convicted of any offense in this chapter shall also be ordered  
55 to perform 250 hours of community service work. Restitution and  
56 community service work shall be in addition to any fine or  
57 sentence that may be imposed and may not be in lieu thereof.

58 Section 3. Section 839.27, Florida Statutes, is created to  
59 read:

60 839.27 Restitution and community service.—A person who is  
61 convicted of any offense in this chapter shall be ordered by the  
62 sentencing judge to make restitution to the victim of the  
63 offense if, after conducting a hearing, the judge finds that the  
64 victim suffered an actual financial loss caused directly or  
65 indirectly by the person's offense or an actual financial loss  
66 related to the person's criminal episode. A person who is  
67 convicted of any offense in this chapter shall also be ordered  
68 to perform 250 hours of community service work. Restitution and  
69 community service work shall be in addition to any fine or  
70 sentence that may be imposed and may not be in lieu thereof.

71 Section 4. This act shall take effect October 1, 2015.