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HOUSE BILL NO. 979

Offered January 26, 1998

A BILL to amend the Code of Virginia by adding a section numbered 8.01-42.3, relating to civil liability for illegal drug transactions.

Patrons—Kilgore, Cantor, Griffith and Rust

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-42.3 as follows:

§ 8.01-42.3. Civil liability for illegal drug transactions.

A. A person who knowingly participates in the illegal drug market as provided herein is liable for civil damages. A law-enforcement officer or agency, the Commonwealth, or a person acting at the direction of a law-enforcement officer or agency or the Commonwealth shall not be liable for participating in the illegal drug market, if the participation is in furtherance of an official investigation.

B. Any one of the following persons may bring an action for damages caused by an individual's illegal use of a controlled substance or marijuana:

1. A parent, legal guardian, child, spouse, or sibling of the individual;

2. An individual who was exposed to controlled substance or marijuana in utero;

3. An employer of the individual;

4. A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual or that otherwise expended money on behalf of the individual drug user; or

5. A person injured as a result of the willful, reckless, or negligent actions of an individual.

C. A person entitled to bring an action under this section may recover damages from a person who knowingly distributed or knowingly participated in the chain of illegal distribution of a controlled substance or marijuana that was actually used by the individual.

D. A person entitled to bring an action under this section may recover all of the following damages:

1. Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal use of a controlled substance or marijuana;

2. Noneconomic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, loss of enjoyment, loss of companionship, services and consortium, and other nonpecuniary losses proximately caused by an individual's use of a controlled substance or marijuana;

3. Exemplary damages;

4. Reasonable attorney fees; and

5. Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

E. An individual user of a controlled substance or marijuana may bring an action for damages caused by the illegal use of a controlled substance or marijuana only if all of the following conditions are met:

1. The individual personally discloses to law-enforcement authorities, more than six months before filing the action, all of the information known to the individual regarding all of the individual's sources of illegal drugs;

2. The individual has not used an illegal drug within the six months before filing the action; and

3. The individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

INTRODUCED

HB979