

1 HB358
2 115277-2
3 By Representatives Galliher, Ward, Hill, Morrow, Ford and
4 Sherer
5 RFD: Judiciary
6 First Read: 19-JAN-10

1 Alabama 1975, against a person described in subsection (a), a
2 civil action for damages for the death of an individual caused
3 by the individual's use of a controlled substance may be
4 brought under this act by a parent, legal guardian, child,
5 spouse, or sibling of the individual.

6 (c) A person entitled to bring a civil action under
7 this section may seek damages from a person described in
8 subsection (a) if the controlled substance manufactured,
9 distributed, dispensed, brought into, or transported in the
10 state by the person was actually used by, and was the
11 proximate cause of the death of, an individual.

12 (d) A law enforcement officer who acts in
13 furtherance of an official investigation or a person who acts
14 at the direction or in cooperation with a law enforcement
15 officer in an official investigation is not liable under this
16 section.

17 (e) A person entitled to bring a civil action under
18 this section may recover any or all of the following:

19 (1) Economic damages and any other pecuniary loss
20 sustained by the plaintiff that was proximately caused by the
21 death of an individual from the individual's unlawful use of a
22 controlled substance.

23 (2) Noneconomic damages, including pain and
24 suffering, emotional distress, mental anguish, loss of
25 enjoyment, loss of companionship, services, and consortium,
26 and other nonpecuniary loss sustained by the plaintiff that

1 was proximately caused by the death of an individual from the
2 individual's unlawful use of a controlled substance.

3 (f) A defendant in an action under this section may
4 not raise a defense of assumption of risk or contributory
5 negligence based on the use of a controlled substance by the
6 deceased individual.

7 (g) All actions commenced pursuant to this section
8 shall be filed within two years of the entry of a guilty plea
9 or of a final judgment of conviction and the exhaustion of all
10 appeals.

11 Section 3. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 19-JAN-10

Read for the second time and placed
on the calendar 04-FEB-10

Read for the third time and passed
as amended 17-FEB-10

Yeas 102, Nays 0, Abstains 0

Greg Pappas
Clerk