- 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	<u>ENGROSSED</u>
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4	A BILL
5	TO BE ENTITLED
6	AN ACT
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8	To establish a cause of action for damages for the
9	death of an individual against persons convicted of
10	manufacturing, distributing, possessing, or selling certain
11	controlled substances.
12	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
13	Section 1. As used in this act, the term "controlled
14	substances" means controlled substances contained in Schedules
15	I through V in Sections 20-2-20 through 20-2-31, Code of
16	Alabama 1975.
17	Section 2. (a) A person who is convicted of enters a
18	guilty plea or against whom a judgment of conviction has been
19	entered for knowingly and willfully manufacturing,
20	distributing, bringing into, or transporting in the state a
21	controlled substance pursuant to Chapter 12, Article 5,
22	Division 2 and Division 3, Title 13A, Code of Alabama 1975, is
23	liable for damages in a civil action as provided in this
24	section.
25	(b) Instead of bringing a wrongful death action
26	pursuant to Sections 6-5-391, 6-5-410, or 6-5-411, Code of

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

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- (c) A person entitled to bring a civil action under this section may seek damages from a person described in subsection (a) if the controlled substance manufactured, distributed, dispensed, brought into, or transported in the state by the person was actually used by, and was the proximate cause of the death of, an individual.
- (d) A law enforcement officer who acts in furtherance of an official investigation or a person who acts at the direction or in cooperation with a law enforcement officer in an official investigation is not liable under this section.
- (e) A person entitled to bring a civil action under this section may recover any or all of the following:
- (1) Economic damages and any other pecuniary loss sustained by the plaintiff that was proximately caused by the death of an individual from the individual's unlawful use of a controlled substance.
- (2) Noneconomic damages, including pain and suffering, emotional distress, mental anguish, loss of enjoyment, loss of companionship, services, and consortium, and other nonpecuniary loss sustained by the plaintiff that

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

- (f) A defendant in an action under this section may not raise a defense of assumption of risk or contributory negligence based on the use of a controlled substance by the deceased individual.
- (g) All actions commenced pursuant to this section shall be filed within two years of the entry of a guilty plea or of a final judgment of conviction and the exhaustion of all appeals.
- Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

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3	House of Representatives
4 5 6 7	Read for the first time and re- ferred to the House of Representa- tives committee on Judiciary 19-JAN-10
8 9 10	Read for the second time and placed on the calendar 04-FEB-10
11 12 13	Read for the third time and passed as amended
14 15 16 17	Greg Pappas Clerk