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SENATE
S. No. 1898

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

This bill seeks to provide a civil remedy for damages to persons injured as a result of the use of illegal drugs. To the extent possible, the cost of damage caused by the market for illegal drugs will be shifted to those who illegally profit from that market. This may deter those who have not yet entered into the distribution market for illegal drugs by establishing the prospect of substantial monetary loss. Illegal drug users will also be given an incentive to identify and pursue those who have provided them with illegal drugs in the past.

Through this bill a new cause of action is established in favor of any person or entity suffering damages or increased expense because of illegal drug use, including the illegal drug user himself, against any person or entity that sold or was in the chain of distribution of the illegal drugs used by the individual illegal drug user and any person or entity involved in the sale or distribution of the type of illegal drugs used by that individual. The bill sets forth certain exceptions, what damages may be recovered, rules on contributory negligence, contribution among joint tortfeasors, prejudgment attachments and other procedures.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed during the Thirteenth Congress, First Regular Session

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 PROVIDING FOR THE CIVIL LIABILITY OF DRUG DEALERS IN FAVOR OF PERSONS
3 INJURED BY ILLEGAL DRUGS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

4 SECTION 1. *Short Title.* - This Act shall be known as the "Drug Dealer Liability Act."

5 SECTION 2. *Declaration of Policy.* - It is the policy of the state to promote the health
6 and well being of our people and to maintain peace and order. To this end, it is necessary to
7 provide measures that will help eradicate the use of illegal drugs by allowing the facilitation of
8 recovery of civil damages against drug dealers aside from the penal sanctions under existing law.

9 SECTION 3. *Definition of Terms.* - For the purpose of this Act, the term:

10 (A) "Illegal drug" shall have the same meaning as the term "dangerous drugs" under
11 Republic Act No. 9165, as amended, also known as the Dangerous Drugs Act of 2002, and shall
12 include methamphetamine hydrochloride, commonly known as "shabu."

13 (B) "Individual drug user" means the individual whose use of a specified illegal drug is
14 the basis of an action brought under this Act.

15 (C) "Participate in the marketing of illegal drugs" means to transport import into the
16 Philippines, sell, possess with the intent to sell, furnish, administer or give away an illegal drug.
17 "Participate in the Marketing of Illegal Drugs" does not include the purchase or receipt of an
18 illegal drug for personal use.

1 (D) "Period of illegal drug use" means in relation to the individual illegal drug user, the
2 period of time from the individual's first use of a specified illegal drug to the accrual of the cause
3 of action. The period of illegal drug use is presumed to commence two (2) years before the cause
4 of action accrues unless the defendant proves otherwise.

5 (E) "Person" means an individual, government entity, corporation, firm, trust,
6 partnership, or incorporated or unincorporated association existing under or authorized by
7 existing law or the laws of a foreign country.

8 (F) "Specified illegal drug" means the type of illegal drug used by an individual illegal
9 drug user which is the basis of an action brought under this Act.

10 SECTION 4. *Persons Injured By an Individual Illegal Drug User.* - Any one or more of
11 the following persons may bring an action for damages caused by an individual's use of an
12 illegal drug:

13 (A) A parent, legal guardian, child, spouse, or sibling of the individual illegal drug user;

14 (B) A person who was exposed to an illegal *in utero*;

15 (C) An employer of an individual drug user; or

16 (D) A medical facility, insurer, government entity, employer, or other entity that funded a
17 drug treatment program or employee assistance program for the individual illegal drug user or
18 that otherwise expended money in behalf of the individual drug user or a dependent of the
19 individual drug user; and

20 (e) A person injured as a result of the willful, reckless, or negligent actions of an
21 individual illegal drug user.

22 SECTION 5. *Persons Liable for Damages.* -A person entitled to seek damages under the
23 preceding section may seek damages from one or more of the following:

24 (A) A person who sold, administered or furnished, or is in the chain of the distribution, an
25 illegal drug used by the individual drug user; or

1 (B) If established by clear and convincing evidence, a person who within this state
2 knowingly participated in the marketing of the specified illegal drug used by an individual illegal
3 drug user during the individual drug user's period of illegal drug use.

4 SECTION 6. *Damages.* - A person injured by an illegal drug user under the preceding
5 section may bring an action to recover all of the following damages:

6 (A) Actual damages, including but not limited to the cost of treatment and rehabilitation,
7 medical expenses, loss of economic or educational potential, loss of productivity, absenteeism,
8 support expenses, accidents or injury, or any other pecuniary loss proximately caused by an
9 individual's use of an illegal drug;

10 (B) Moral damages, including but not limited to physical and emotional pain, suffering,
11 physical impairment, emotional distress, disfigurement, loss of employment, loss of
12 companionship, services, and consortium, and other non-pecuniary loss proximately caused by
13 an individual's use of an illegal drug;

14 (C) Exemplary damages;

15 (D) Reasonable attorney's fees; and

16 (E) Costs of suit, including, but not limited to, expenses for expert witnesses and
17 expenses for investigative services to determine the identity of the defendants and the location of
18 any assets of the defendants.

19 SECTION 7. *Suits by Illegal Drug User.* - An individual illegal drug user entitled to
20 bring an action under this Act may seek damages only from a person who sold, administered, or
21 furnished, or is in the chain of distribution of an illegal drug used by the individual illegal drug
22 user.

23 SECTION 8. *Limited Damages.* - An individual illegal drug user entitled to bring an
24 action under this Act may recover only the following damages:

1 (A) Actual damages, including but not limited to the cost of treatment and rehabilitation,
2 medical expenses, loss of economic or educational potential, loss of productivity, absenteeism,
3 support expenses, accidents or injury, or any other pecuniary loss proximately caused by an
4 individual's use of an illegal drug;

5 (B) Reasonable attorney's fees; and

6 (C) Costs of suit, including but not limited to expenses for expert witnesses and expense
7 for investigative services to determine the identity of the defendants and the location of any
8 assets of the defendants.

9 SECTION 9. *Non-Exclusiveness; Exceptions to Liability.* - Any cause of action
10 established under this Act shall be in addition to and not in lieu of any other cause of action. A
11 law enforcement officer or agency or the state, or a person acting at the direction of a law
12 enforcement officer or agency or the state is not liable for participating in the marketing of illegal
13 drugs if the participation is in furtherance of an official investigation.

14 SECTION 10. *Contributory Negligence.* - Contributory negligence shall not bar recovery
15 by an individual illegal drug user, but may diminish the award of any damages in proportion to
16 the amount of negligence attributable to the individual illegal drug user. Contributory negligence
17 shall not be attributable to a plaintiff who is not an individual illegal drug user, unless the
18 plaintiff willfully and knowingly gave illegal drugs or money for the purchase of the specified
19 illegal drug.

20 SECTION 11. *Contribution Among and Recovery from Multiple Defendants.* - A person
21 subject to liability under this Act has a right of contribution against any other person subject to
22 liability under this Act. Contribution may be enforced either in the original action or by a
23 separate action brought for that purpose. A plaintiff may seek recovery in accordance with this
24 Act and other laws against a person whom a defendant has asserted a right of contribution.

1 SECTION 12. *Effect of Criminal Drug Conviction.* - A person against whom recovery is
2 sought who has a criminal conviction for other than mere possession of the specified illegal drug
3 under the “Dangerous Drugs Act of 2002” is estopped from denying participation in the illegal
4 drug market. Such a conviction is also a prima facie evidence of the person’s participation in the
5 illegal drug market during the two years preceding the date of an act giving rise to a conviction.
6 The absence of a conviction of a person against whom recovery is sought does not bar an action
7 against that person.

8 SECTION 13. *Prejudgment Attachment and Execution of Judgment.* - Except as provided
9 in subsection (c) of this section, a plaintiff under Rule 57 of the Rules of Court without the
10 requirements provided for in Section 1 of the said Rule 57 against all of the assets of a defendant
11 sufficient to satisfy a potential award. If attachment is issued, a defendant is entitled to an
12 immediate hearing. The attachment may be removed if the defendant demonstrates that the assets
13 will be available for a potential award of if the defendant posts a bond sufficient to cover a
14 potential award. A person against whom a judgment has been rendered under this Act is not
15 eligible to exempt any property, of whatever kind, from process to levy or process to execute on
16 the judgment. Any assets sought to satisfy a judgment under this Act that have been named in a
17 forfeiture action pending on the date that the attachment under subsection (a) of this section is
18 sought or have been seized forfeiture by any government agency may not be attached or used to
19 satisfy a judgment unless and until the assets have been released following conclusion of the
20 forfeiture action or released by the agency that seized the assets.

21 SECTION 14. *Statute of Limitations.* - Except as otherwise provided by this section, a
22 claim under this Act shall not be brought more than two years after the cause of action accrues
23 under this Act when a person who may recover has reason to know of the harm from illegal drug
24 use that is the basis of the cause of the action and has reason to know that the illegal drug use is
25 the cause of the harm. For a plaintiff, the statute of limitations under this section is tolled while
26 the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that

1 the individual cannot reasonably be expected to seek recovery under this Act or as otherwise
2 provided by law. For a defendant, the statute of limitations under this section does not expire
3 until six (6) months after the individual potential defendant is convicted of a criminal offense or
4 as otherwise provided by law.

5 SECTION 15. *Stay of Action.* - On motion by a government agency involved in a drug
6 investigation or prosecution, an action brought under this Act shall be stayed until the
7 completion of the criminal investigation or prosecution that gave rise to the motion for a stay of
8 the action.

9 SECTION 16. *Non-Retroactivity.* -No cause of action shall accrue based upon any act by
10 a defendant that occurred prior to the effective date of this Act.

11 SECTION 17. *Separability Clause.* - If any provision or part hereof is held invalid or
12 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
13 valid and subsisting.

14 SECTION 18. *Repealing Clause.* - Any law, presidential decree or issuance, executive
15 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
16 with, the provision of this Act is hereby repealed, modified or amended accordingly.

17 SECTION 19. *Effectivity Clause.* -This Act shall take effect fifteen (15) days after its
18 publication in at least two (2) newspapers of general circulation.

Approved,