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SENATE FILE 2204
BY IVERSON

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the filing of a civil action against a person
2 who illegally manufactures, delivers, or who acts with, enters
3 into a common scheme or design with, or conspires with one or
4 more other persons to illegally manufacture or deliver, a
5 controlled substance.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2204

1 Section 1. NEW SECTION. 611.24 ACTIONS AGAINST PERSONS
2 WHO ILLEGALLY MANUFACTURE OR DELIVER A CONTROLLED SUBSTANCE.

3 1. As used in this section:

4 a. "Offender" means a person illegally using a controlled
5 substance.

6 b. "Person" means a parent, legal guardian, child, spouse,
7 or sibling of an offender, or an individual exposed in utero,
8 an employer of an offender, a medical facility, an insurer, a
9 governmental entity, an entity that funds or provides a
10 substance abuse treatment program, or an individual injured as
11 a result of the willful, reckless, or negligent actions of an
12 offender under the influence of a controlled substance.

13 c. "Use" means consumption of a controlled substance.

14 2. A person may file an action against an individual who
15 illegally manufactures, delivers, or who acts with, enters
16 into a common scheme or design with, or conspires with one or
17 more other individuals to illegally manufacture or deliver, a
18 controlled substance used by an offender for damages caused by
19 the offender's illegal use of the controlled substance.

20 3. A person may recover the following damages for an
21 action filed under subsection 2:

22 a. Economic damages which resulted from the illegal use of
23 a controlled substance including but not limit to the cost of
24 treatment and rehabilitation, medical expenses, loss of
25 economic or educational potential, losses of productivity,
26 absenteeism, support expenses, and other pecuniary loss
27 proximately caused by the offender using a controlled
28 substance.

29 b. Noneconomic damages including but not limited to pain
30 and suffering, emotional distress, disfigurement, loss of
31 enjoyment, loss of consortium, and other nonpecuniary losses
32 proximately caused by the offender using a controlled
33 substance.

34 c. Punitive damages.

35 d. Reasonable attorney fees.

1 e. Any other costs or expenses incurred while seeking
2 recovery under this section.

3 4. a. An offender shall not file an action under this
4 section and no damages are recoverable except when all of the
5 following apply:

6 (1) The offender has disclosed to a county attorney or
7 prosecutor or a law enforcement agency all the information
8 known to the offender about the offender's illegal use of a
9 controlled substance, including who supplied the illegal
10 controlled substance to the offender.

11 (2) The offender has not illegally used a controlled
12 substance within six months of filing the action.

13 (3) The offender does not illegally use a controlled
14 substance during the pendency of any action filed.

15 b. An offender is not eligible to recover punitive damages
16 under this subsection.

17 5. a. Notwithstanding section 614.1, an action under this
18 section may be brought within two years from the date the
19 cause of action accrues. The date a cause of action accrues
20 shall be the date a person knows or has reason to know illegal
21 use of a controlled substance is the cause of the damage to
22 the person.

23 b. If the defendant in any potential action brought by a
24 person under this section is being prosecuted for any criminal
25 offense related to a controlled substance violation, the
26 limitation of action in paragraph "a" tolls until six months
27 after the criminal case has been completed or if there is an
28 appeal, six months after the time to file an appeal has
29 expired or the appeal has been completed, whichever is later.

30 6. A county attorney or any other prosecutor may file an
31 application with the court where an action is filed to stay
32 the action until such time a criminal investigation or
33 criminal prosecution, including any appeal, related to the
34 action filed has been completed.

35 7. The county attorney or any other prosecutor may file an

1 action on behalf of a person under this section.

2 EXPLANATION

3 This bill relates to the filing of a civil action against a
4 person who illegally manufactures, delivers, or who acts with,
5 enters into a common scheme or design with, or conspires with
6 one or more other persons to illegally manufacture or deliver
7 a controlled substance.

8 The bill provides that a parent, legal guardian, child,
9 spouse, or sibling of a substance abuser, or an individual
10 exposed in utero, an employer of a substance abuser, and other
11 entities may file an action for damages against an individual
12 who illegally manufactures, delivers, or who acts with, enters
13 into a common scheme or design with, or conspires with one or
14 more other persons to illegally manufacture or deliver, a
15 controlled substance used by the substance abuser.

16 The bill provides that a person or entity filing an action
17 may recover economic, noneconomic, and punitive damages, and
18 attorney fees, and other related costs from the individual
19 illegally manufacturing or delivering, or conspiring to
20 illegally manufacture or deliver a controlled substance.

21 The bill provides that a substance abuser may also file an
22 action against an individual who illegally manufactured or
23 delivered a controlled substance, or any person who conspired
24 to illegally manufacture or deliver a controlled substance, to
25 the substance abuser. However, the bill requires the
26 substance abuser to disclose all substance-abuse-related
27 information to a prosecutor or a law enforcement agency, and
28 to remain substance free during the pendency of any action
29 filed in order to recover damages under the bill. The bill
30 prohibits a substance abuser from obtaining punitive damages
31 against the individual who illegally manufactured or
32 delivered, or conspired to illegally manufacture or deliver a
33 controlled substance consumed by the substance abuser.

34 The bill provides that a person must bring an action within
35 two years of the date the person knows or has reason to know

1 illegal use of a controlled substance is the cause of the
2 damage to the person. If a potential target of any action
3 filed under the bill is already being prosecuted, the two-year
4 limitation period is tolled until six months after completion
5 of any prosecution and appeal.

6 The bill also provides that a prosecutor may file an
7 application requesting a stay of any action filed pursuant to
8 the bill until such time a criminal investigation or criminal
9 prosecution, including any appeal, related to the action filed
10 under the bill has been completed.

11 The bill permits a prosecutor to file an action under the
12 bill on behalf of a person damaged by illegal use of a
13 controlled substance.

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