

**58-37e-4 Recovery of damages.**

- (1) One or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug:
  - (a) a parent, legal guardian, child, spouse, or sibling of the individual drug user;
  - (b) an individual who was exposed to an illegal drug in utero;
  - (c) an employer of the individual drug user;
  - (d) a medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user; or
  - (e) a person injured as a result of the willful, reckless, or negligent actions of an individual drug user.
- (2) A person entitled to bring an action under this section may seek damages from one or more of the following:
  - (a) a person who knowingly distributed, or knowingly participated in the chain of distribution of, an illegal drug that was actually used by the individual drug user;
  - (b) a person who knowingly participated in the illegal drug market if:
    - (i) the place of illegal drug activity by the individual drug user is within the illegal drug market target community of the defendant;
    - (ii) the defendant's participation in the illegal drug market was connected with the same type of illegal drug used by the individual drug user; and
    - (iii) the defendant participated in the illegal drug market at any time during the individual drug user's period of illegal drug use.
- (3) A person entitled to bring an action under this section may recover all of the following damages:
  - (a) economic damages, including 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 drug use;
  - (b) noneconomic damages, including physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other nonpecuniary losses proximately caused by an individual's use of an illegal drug;
  - (c) exemplary damages;
  - (d) reasonable attorney's fees; and
  - (e) costs of suit, including reasonable expenses for expert testimony.

Enacted by Chapter 349, 1997 General Session