

BILL ANALYSIS

Senate Research Center
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S.B. 924
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DIGEST

Currently, under Texas law, a civil action may not be brought against those who provided a controlled substance to an individual with resulting illness, injuries, or death. This bill would authorize a civil action to be brought against a person who illegally provides a controlled substance to a person, with resulting illness, injury, death, or other loss.

PURPOSE

As proposed, S.B. 924 authorizes a civil action to be brought against a person who illegally provides a controlled substance to a person, with resulting illness, injury, death, or other loss.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6C, Health and Safety Code, by adding Chapter 486, as follows:

CHAPTER 486. LIABILITY FOR DISTRIBUTION OF CONTROLLED SUBSTANCES

Sec. 486.001. DEFINITIONS. Defines “claimant,” “controlled substance,” “defendant,” “deliver,” and “marihuana.”

Sec. 486.002. PERSONS WHO MAY BRING ACTION. Authorizes a claimant to recover damages under this chapter for personal injury, death, or property damage caused by an individual’s use of a controlled substance in violation of the law for certain claimants. Authorizes an individual who used a controlled substance to recover damages under this chapter for personal injury, death, or property damage caused by the individual’s use of a controlled substance only to the extent authorized by Section 486.004. Prohibits an agency of local, state, or federal government, other than a medical facility operated by an agency of local, state, or federal government that has provided medical services, from bringing a cause of action under this chapter, notwithstanding Subsection (a)(4). Prohibits a cause of action under this chapter from being assigned to an agency of local, state, or federal government, and an agency of local, state, or federal government, does not have any right to subrogation of a cause of action under this chapter.

Sec. 486.003. PERSONS WHO MAY BE HELD LIABLE. Sets forth certain persons that may be held liable under this chapter, except as provided by Section 486.004. Provides that a person knowingly participates in the illegal drug market if the person manufactures or delivers a controlled substance, possesses a controlled substance with the intent to manufacture or deliver, or delivers or possesses marihuana in violation of Chapter 481D. Provides that the phrase does not include possession of a controlled substance for personal use only.

Sec. 486.004. CAUSE OF ACTION. Sets forth the conditions under which an individual who used a controlled substance in violation of the law may recover damages. Authorizes an individual who used a controlled substance in violation of the law to bring an action under this chapter only against a person described in Section 486.003(a)(1). Prohibits an individual who used a controlled substance in violation of the law from recovering damages for noneconomic loss or exemplary damages described by Section 486.005(1)(B) or (2).

Sec. 486.005. DAMAGES. Sets forth the damages a claimant may recover, subject to Section 486.006 and except as provided by Section 486.004(c).

Sec. 486.006. LIMITATION ON DAMAGES; PROPORTIONATE RESPONSIBILITY. Sets forth certain limitations on damages under this chapter. Provides that in determining a person's percentage of liability under this section, a person who is convicted of more than one offense described by Subsections (a)(1)-(4) is liable as if only one offense has been committed. Provides that if the offenses committed by the person are described by different subdivisions, the person's percentage of liability is the highest percentage for which the person could be liable under a single subdivision. Provides that Chapter 33, Civil Practice and Remedies Code, does not apply to a claim brought under this chapter by a person other than the individual who used a controlled substance in violation of the law. Provides that Chapter 33, Civil Practice and Remedies Code, applies to a claim brought by the individual who used a controlled substance in violation of the law under the chapter, except Section 33.001, Civil Practice and Remedies Code, does not apply to the claim. Requires the court to reduce the amount of damages that would be recoverable by the claimant under Subsection (a) by a percentage equal to the claimant's percentage of responsibility, in accordance with Section 33.012, Civil Practice and Remedies Code, after a claimant's percentage of responsibility is determined under Section 33.003.

Sec. 486.007. STANDARD OF PROOF; RES JUDICATA. Requires a claimant show by clear and convincing evidence that the defendant is the person from whom the claimant is entitled to recover under Section 486.003. Provides that a final conviction for a criminal offense is res judicata as to any element of the offense that is relevant in an action under this chapter.

Sec. 486.008. STATUTE OF LIMITATIONS. Requires a claimant to bring suit under this chapter by a certain date, notwithstanding Section 16.003, Civil Practice and Remedies Code.

Sec. 486.009. JOINT ACTIONS. Sets forth the conditions under which two or more claimants may join in one action under this chapter. Authorizes any person who is alleged to be liable to at least one properly joined claimant to be joined as a defendant in an action under this chapter.

Sec. 486.010. EX PARTE PREJUDGMENT ATTACHMENT. Authorizes a person to file an ex parte motion requesting that the court issue a prejudgment attachment order against any assets of the defendant in an amount sufficient to satisfy a potential judgment against the defendant. Authorizes the court to grant the motion for a prejudgment attachment order if the claimant establishes certain claims. Requires the claimant to notify the defendant of the order and, if the defendant has not been served with citation, shall serve the citation, by a certain date. Requires the claimant to notify the court, if the claimant is unable to notify the defendant and serve citation. Provides that a defendant against whom an ex parte prejudgment attachment order has been issued is entitled to a hearing on the order by a certain date. Requires the court to revoke a prejudgment attachment order issued under this section if the defendant performs certain actions.

Sec. 486.011. INSURANCE COVERAGE. Prohibits an insurance company from indemnifying a defendant for liability for damages awarded under this chapter and may not provide or pay for a defense on behalf of the defendant.

Sec. 486.012. STAY OF ACTION FOR INVESTIGATION. Requires the court to stay an action brought under this chapter until the completion of a related criminal investigation or prosecution, on motion by a governmental agency involved in the investigation or prosecution of crimes relating to the distribution or use of controlled substances.

Sec. 486.013. LAW ENFORCEMENT. Provides that a law enforcement officer or agency, this state, or a person acting at the direction of a law enforcement officer or agency is not liable under this chapter for any conduct engaged in furtherance of an official investigation.

SECTION 2. Makes application of this Act prospective.
Effective date: 90 days after adjournment.