

CHAPTER 97-80

Committee Substitute for Senate Bill Nos. 764 and 474

An act relating to civil damages against drug offenders; creating s. 772.12, F.S.; creating the “Hugh O’Connor Memorial Act”; providing that persons injured by a drug dealer may recover treble damages and reasonable attorney’s fees and court costs; providing for minimum damages; providing for recovery of damages, court costs, and fees from the parents or legal guardian of an unemancipated minor under certain circumstances; providing conditions under which a defendant may recover attorney’s fees and court costs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 772.12, Florida Statutes, is created to read:

772.12 Drug Dealer Liability Act.—

(1) This section may be cited as the “Hugh O’Connor Memorial Act.”

(2) A person, including any governmental entity, has a cause of action for threefold the actual damages sustained and is entitled to minimum damages in the amount of \$1,000 and reasonable attorney’s fees and court costs in the trial and appellate courts, if the person proves by the greater weight of the evidence that:

(a) The person was injured because of the defendant’s actions that resulted in the defendant’s conviction for:

1. A violation of s. 893.13, except for a violation of s. 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

2. A violation of s. 893.135; and

(b) The person was not injured by reason of his or her participation in the same act or transaction that resulted in the defendant’s conviction for any offense described in subparagraph (a)1.

(3) For purposes of this section, the term “conviction” means a finding of guilt, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(4) A person who has a cause of action under this section may recover the damages allowed under this section from the parent or legal guardian of an unemancipated minor who is liable for the damages and who lives with his or her parent or legal guardian, if the person proves by clear and convincing evidence that the parent or legal guardian was aware of or recklessly disregarded facts demonstrating that the minor intended to commit the act giving rise to a cause of action under this section. The parent or legal guardian of an unemancipated minor is not liable under this section, under any circumstance, for the actions of the minor, if the court finds that the parent or legal

guardian made a good-faith effort to prevent the minor from engaging in the act giving rise to a cause of action under this section.

(5) A defendant may recover reasonable attorney's fees and court costs in the trial and appellate courts upon a finding that there is a complete absence of a justiciable issue of either law or fact raised by the complaint.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 23, 1997.

Filed in Office Secretary of State May 23, 1997.