

STATE OF TENNESSEE

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State House Legislative District as a Jurisdiction for Drug Dealer Liability

QUESTION

The legislature passed House Bill 17/Senate Bill 222 regarding drug dealer liability. This bill uses state house districts to define the jurisdiction for filing claims under the Drug Dealer Liability Act. Is there a rational basis for using house districts for determining jurisdiction?

OPINION

Yes. There is a rational basis for using state house districts to determine proper jurisdiction in which to file claims under the Drug Dealer Liability Act. The use of state house districts for defining jurisdiction does not violate any provision of the United States Constitution or the Tennessee Constitution.

ANALYSIS

The Drug Dealer Liability Act, as set forth in House Bill 17/Senate Bill 222, provides a civil remedy for damages to persons in a community injured as a result of illegal drug use. Persons who may sue under the Act include parents, employers, insurers, governmental entities, persons who pay for drug treatment, and infants injured as a result of exposure to drugs in utero. The Act will enable those injured persons to recover damages from those persons in the community who have joined the illegal drug market, such as drug dealers. Another purpose of the Act is to shift the cost of the damage caused by the existence of the illegal drug market in a community to those who illegally profit from that market, such as drug dealers and suppliers. The Act will also serve as a deterrent to those who have not yet entered into the illegal drug distribution market by establishing the prospect of substantial monetary loss. Finally, the Act will establish an incentive for drug users to identify and seek payment for their own drug treatment from those drug dealers who have sold them drugs in the past.

Under the Act, a person who knowingly participates in the illegal drug market within Tennessee is liable for civil damages, and a person may recover damages for injury resulting from an individual's use of an illegal drug. A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for

participating in the illegal drug market, if the participation is in furtherance of an official investigation.

The following persons may bring an action for damages caused by an individual's use of an illegal drug: (1) A parent, legal guardian, child, spouse, or sibling of the individual drug user; (2) An individual who was exposed to an illegal drug in utero; (3) An employer of the individual drug user; (4) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program for the individual drug user or that otherwise expended money on behalf of the individual drug user; or (5) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user. A person may sue drug dealers who knowingly distributed, or knowingly participated in the chain of distribution of, an illegal drug that was used by the individual drug user.

A person entitled to bring an action under this Act may recover economic damages, including, but not limited to, 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. A person may also recover noneconomic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other non-pecuniary losses proximately caused by an individual's use of an illegal drug. A person may also recover exemplary damages, reasonable attorney fees, and the costs of the suit, including reasonable expenses for expert testimony.

An individual drug user may bring an action for damages caused by the use of an illegal drug only if all of the following conditions are met: (1) The individual personally discloses to narcotics enforcement authorities, more than six months before filing the action, all of the information known to the individual regarding all that individual's sources of illegal drugs; (2) The individual has not used an illegal drug within the six months before filing the actions; and (3) The individual continues to remain free of the use of an illegal drug throughout the pendency of the action. An individual drug user may not recover any non-economic damages under the Act.

A person subject to liability under the Act has a right of action for contribution against another person subject to liability under the Act. Proof of participation in the illegal drug market in an action brought under the Act must be shown by clear and convincing evidence. A person sued under the Act who has a criminal conviction pursuant to state or federal drug laws is estopped from denying participation in the illegal drug market. Such a conviction is also prima facie evidence of the person's participation in the illegal drug market during the two years preceding the date of an act giving rise to a conviction.

The statute of limitations to bring suit under the Act is two years after the cause of action accrues. A plaintiff under the Act may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award.

Section 9 of the Drug Dealer Liability Act describes the areas that constitute the “illegal drug market target communities” in Tennessee:

A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

- (1) For a level 1 offense, the state house legislative district in which the defendant’s place of participation is situated;
- (2) For a level 2 offense, the target community described in subdivision (1) plus all state house legislative districts with a border contiguous to that target community;
- (3) For a level 3 offense, the target community described in subdivision (2) plus all state house legislative districts with a border contiguous to that target community;
- (4) For a level 4 offense, the state.

Section 4 of the Drug Dealer Liability Act provides the definitions for the four levels of offenses, which increase depending upon the amount of drugs possessed or distributed. Therefore, a person may sue under the Act provided that they are in one of the target communities set forth in Section 9.

The question is whether a rational basis exists for the use of a state House district to determine the field for which one can bring a legal action for drug dealing under the Act. Under the United States Constitution, Amendment 14, Article I, Section 8, and Article XI Section 8, of the Tennessee Constitution, the same rules are applied as to the validity of classifications made in legislative enactments. *City of Memphis v. State ex rel. Ryals*, 133 Tenn. 83, 88, 179 S.W. 631 (1915). Article XI, Section 8, of the Tennessee Constitution provides, in relevant part:

The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunitie [sic], or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law.

The Tennessee courts have applied a rational basis test for determining whether a statute violates the above-quoted constitutional provision. All classifications that do not affect a fundamental right or discriminate as to a suspect class are generally subject to the rational basis test. *Harrison v. Schrader*, 569 S.W.2d 822, 825 (Tenn. 1978). Under the rational basis test, “[i]f some reasonable basis can be found for the classification, or if any state of facts may reasonably be conceived to

justify it, the classification will be upheld.” *State v. Tester*, 879 S.W.2d 823, 828 (Tenn. 1994); *see also Estrin v. Moss*, 221 Tenn. 657, 667, 430 S.W.2d 345 (1968). Thus, the rational basis test is a lenient standard under which a defendant may satisfy its burden merely by demonstrating any possible reason or justification for the statute’s passage. *Eye Clinic v. Jackson-Madison County General Hospital*, 986 S.W.2d 565, 579 (Tenn. Ct. App. 1998). Further, a classification having some reasonable basis does not offend equal protection merely because classification is not made with mathematical nicety, or because in practice it results in some inequality. *Wyatt v. A-Best Products Company, Inc.*, 924 S.W.2d 98, 105 (Tenn. Ct. App. 1995).

A rational basis exists for the use of state House districts to determine the field for which a person can bring a legal action for drug dealing under the Drug Dealer Liability Act, as set forth in House Bill 17/Senate Bill 222. The use of state House districts as jurisdictions is rationally related to legitimate state interests because the Act provides a civil remedy for damages to persons in a community injured as a result of illegal drug use, and it defines the “illegal drug market target communities” depending upon the extent of a person’s participation in the illegal drug market. The use of state House districts as jurisdictions for persons injured as a result of illegal drug use to sue under the Act is reasonable because the 99 state House districts are based upon population densities within Tennessee. The use of state House districts is rationally related to legitimate state interests because it helps to equalize “illegal drug market target communities” across Tennessee based upon population densities as opposed to basing the communities solely on geography. A system based solely on geography, such as by counties, would create great inequalities between rural counties with small populations and metropolitan counties with large populations. The use of state House districts as jurisdictions is rationally related to the legitimate state interest of creating relatively uniform “illegal drug market target communities” for persons to sue drug dealers under the Act across Tennessee.

A person injured as a result of illegal drug use may sue under the Act if he or she is located within the “illegal drug market target community” provided in Section 9 of the Act. As the extent of a person’s participation in the illegal drug market increases, so does the “illegal drug market target community.” A larger target community for a person who possessed or distributed a large quantity of drugs is reasonable because those drugs could be distributed to a greater number of people and affect a larger area. In the same way, a smaller target community for a person who possessed or distributed a smaller quantity of drugs is reasonable because those drugs would affect a smaller area. Because the use of state House districts as jurisdictions for persons injured as a result of illegal drug use to sue under the Act is rationally related to legitimate state interests, equal protection requirements are satisfied.

For these reasons, it is the opinion of this Office that a rational basis exists for the use of state House districts to determine the field for which a person can bring a legal action for drug dealing under the Drug Dealer Liability Act, as set forth in House Bill 17/Senate Bill 222.

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