A bill to be entitled

An act relating to civil liability for the wrongful
death of an unborn child; reordering and amending s.
768.18, F.S.; revising the definition of the term
“survivors” to include the parents of an unborn child;
defining the term “unborn child”; amending s. 768.19,
F.S.; prohibiting a right of action against the mother
for the wrongful death of an unborn child; amending s.
768.21, F.S.; authorizing parents of an unborn child
to recover certain damages; conforming a cross-
reference; providing an effective date.

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

Section 1. Section 768.18, Florida Statutes, is reordered
and amended to read:

768.18 Definitions.—As used in ss. 768.16-768.26:
(1) "Minor children" means children under 25 years of
age, notwithstanding the age of majority.
(2) "Net accumulations" means the part of the decedent’s
expected net business or salary income, including pension
benefits, that the decedent probably would have retained as
savings and left as part of her or his estate if the decedent
had lived her or his normal life expectancy. "Net business or
salary income" is the part of the decedent’s probable gross
income after taxes, excluding income from investments continuing
beyond death, that remains after deducting the decedent’s
personal expenses and support of survivors, excluding
contributions in kind.
“Services” means tasks, usually of a household nature, regularly performed by the decedent that will be a necessary expense to the survivors of the decedent. These services may vary according to the identity of the decedent and survivor and shall be determined under the particular facts of each case.

“Support” includes contributions in kind as well as money.

“Survivors” means the decedent’s spouse, children, parents, and, when partly or wholly dependent on the decedent for support or services, any blood relatives and adoptive brothers and sisters. It includes the child born out of wedlock of a mother, but not the child born out of wedlock of the father unless the father has recognized a responsibility for the child’s support. It also includes the parents of an unborn child.

“Unborn child” has the same meaning as in s. 775.021(5)(e).

Section 2. Section 768.19, Florida Statutes, is amended to read:

768.19 Right of action.—
(1) When the death of a person is caused by the wrongful act, negligence, default, or breach of contract or warranty of any person, including those occurring on navigable waters, and the event would have entitled the person injured to maintain an action and recover damages if death had not ensued, the person or watercraft that would have been liable in damages if death had not ensued shall be liable for damages as specified in this act notwithstanding the death of the person injured, although
death was caused under circumstances constituting a felony.

(2) Notwithstanding any other provision of this act, a wrongful death action for the death of an unborn child may not be brought against the mother of the unborn child.

Section 3. Subsection (4) and paragraph (a) of subsection (6) of section 768.21, Florida Statutes, are amended to read:

768.21 Damages.—All potential beneficiaries of a recovery for wrongful death, including the decedent’s estate, shall be identified in the complaint, and their relationships to the decedent shall be alleged. Damages may be awarded as follows:

(4) Each parent of a deceased minor child or an unborn child may also recover for mental pain and suffering from the date of injury. Each parent of an adult child may also recover for mental pain and suffering if there are no other survivors.

(6) The decedent’s personal representative may recover for the decedent’s estate the following:

(a) Loss of earnings of the deceased from the date of injury to the date of death, less lost support of survivors excluding contributions in kind, with interest. Loss of the prospective net accumulations of an estate, which might reasonably have been expected but for the wrongful death, reduced to present money value, may also be recovered:

1. If the decedent’s survivors include a surviving spouse or lineal descendants; or

2. If the decedent is not a minor child as defined in s. 768.18 or 768.18(2), there are no lost support and services recoverable under subsection (1), and there is a surviving parent.
Evidence of remarriage of the decedent’s spouse is admissible.

Section 4. This act shall take effect July 1, 2024.