

1 A bill to be entitled
2 An act relating to civil liability for the wrongful
3 death of an unborn child; reordering and amending s.
4 768.18, F.S.; revising the definition of the term
5 "survivors" to include the parents of an unborn child;
6 providing a definition for the term "unborn child";
7 amending s. 768.19, F.S.; prohibiting a right of
8 action against the mother for the wrongful death of an
9 unborn child; amending s. 768.21, F.S.; authorizing
10 parents of an unborn child to recover certain damages;
11 conforming a cross-reference; providing an effective
12 date.

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

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

18 768.18 Definitions.—As used in ss. 768.16–768.26:

19 (1)~~(2)~~ "Minor children" means children under 25 years of
20 age, notwithstanding the age of majority.

21 (2)~~(5)~~ "Net accumulations" means the part of the
22 decedent's expected net business or salary income, including
23 pension benefits, that the decedent probably would have retained
24 as savings and left as part of her or his estate if the decedent
25 had lived her or his normal life expectancy. "Net business or

26 salary income" is the part of the decedent's probable gross
 27 income after taxes, excluding income from investments continuing
 28 beyond death, that remains after deducting the decedent's
 29 personal expenses and support of survivors, excluding
 30 contributions in kind.

31 (3)~~(4)~~ "Services" means tasks, usually of a household
 32 nature, regularly performed by the decedent that will be a
 33 necessary expense to the survivors of the decedent. These
 34 services may vary according to the identity of the decedent and
 35 survivor and shall be determined under the particular facts of
 36 each case.

37 (4)~~(3)~~ "Support" includes contributions in kind as well as
 38 money.

39 (5)~~(1)~~ "Survivors" means the decedent's spouse, children,
 40 parents, and, when partly or wholly dependent on the decedent
 41 for support or services, any blood relatives and adoptive
 42 brothers and sisters. It includes the child born out of wedlock
 43 of a mother, but not the child born out of wedlock of the father
 44 unless the father has recognized a responsibility for the
 45 child's support. It also includes the parents of an unborn
 46 child.

47 (6) "Unborn child" has the same meaning as in s.
 48 775.021 (5) (e).

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

51 768.19 Right of action.—

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

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

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

66 768.21 Damages.—All potential beneficiaries of a recovery
67 for wrongful death, including the decedent's estate, shall be
68 identified in the complaint, and their relationships to the
69 decedent shall be alleged. Damages may be awarded as follows:

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

74 (6) The decedent's personal representative may recover for
75 the decedent's estate the following:

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

82 1. If the decedent's survivors include a surviving spouse
83 or lineal descendants; or

84 2. If the decedent is not a minor child as defined in s.
85 768.18 ~~s. 768.18(2)~~, there are no lost support and services
86 recoverable under subsection (1), and there is a surviving
87 parent.

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89 Evidence of remarriage of the decedent's spouse is admissible.

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