

By the Committee on Judiciary; and Senator Grall

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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 defining the term "unborn child"; amending s. 768.19,
7 F.S.; providing that the Wrongful Death Act does not
8 authorize a wrongful death action against the mother
9 of an unborn child for the death of the child;
10 providing that the act does not authorize a wrongful
11 death action against a health care provider for the
12 death of an unborn child which results from medical
13 care complying with the applicable standard of care;
14 amending s. 768.21, F.S.; authorizing parents of an
15 unborn child to recover certain damages; conforming a
16 cross-reference; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 768.18, Florida Statutes, is reordered
21 and amended to read:

22 768.18 Definitions.—As used in ss. 768.16-768.26:

23 (1)~~(2)~~ "Minor children" means children under 25 years of
24 age, notwithstanding the age of majority.

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

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

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

41 (4)~~(3)~~ "Support" includes contributions in kind as well as
42 money.

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

51 (6) "Unborn child" means a member of the species *Homo*
52 sapiens, at any stage of development, who is carried in the
53 womb.

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

56 768.19 Right of action.—

57 (1) When the death of a person is caused by the wrongful
58 act, negligence, default, or breach of contract or warranty of

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59 any person, including those occurring on navigable waters, and
60 the event would have entitled the person injured to maintain an
61 action and recover damages if death had not ensued, the person
62 or watercraft that would have been liable in damages if death
63 had not ensued shall be liable for damages as specified in this
64 act notwithstanding the death of the person injured, although
65 death was caused under circumstances constituting a felony.

66 (2) This act does not authorize a wrongful death action
67 against:

68 (a) The mother of an unborn child for the death of the
69 unborn child.

70 (b) A health care provider for the death of an unborn child
71 which results from lawful medical care provided in compliance
72 with the applicable standard of care.

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

75 768.21 Damages.—All potential beneficiaries of a recovery
76 for wrongful death, including the decedent's estate, shall be
77 identified in the complaint, and their relationships to the
78 decedent shall be alleged. Damages may be awarded as follows:

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

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

85 (a) Loss of earnings of the deceased from the date of
86 injury to the date of death, less lost support of survivors
87 excluding contributions in kind, with interest. Loss of the

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88 prospective net accumulations of an estate, which might
89 reasonably have been expected but for the wrongful death,
90 reduced to present money value, may also be recovered:

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

93 2. If the decedent is not a minor child as defined in s.
94 768.18 ~~s. 768.18(2)~~, there are no lost support and services
95 recoverable under subsection (1), and there is a surviving
96 parent.

97

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

99 Section 4. This act shall take effect July 1, 2025.