

By Senator Grall

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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 or against a
medical provider for lawful medical care provided in
certain circumstances; amending s. 768.21, F.S.;
authorizing parents of an unborn child to recover
certain damages; prohibiting the recovery of certain
damages if the decedent is an unborn child; 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:

(5)~~(1)~~ "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.

(1)~~(2)~~ "Minor children" means children under 25 years of

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age, notwithstanding the age of majority.

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

~~(3)(4)~~ "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.

~~(2)(5)~~ "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.

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

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

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59 action and recover damages if death had not ensued, the person
60 or watercraft that would have been liable in damages if death
61 had not ensued shall be liable for damages as specified in this
62 act notwithstanding the death of the person injured, although
63 death was caused under circumstances constituting a felony.

64 (2) Notwithstanding any other provision of this act, a
65 wrongful death action for the death of an unborn child may not
66 be brought against the mother of the unborn child or against a
67 medical provider for lawful medical care provided in compliance
68 with the applicable standard of care, including, but not limited
69 to, care related to assisted reproductive technologies as
70 defined in s. 742.13, provided with the consent of the mother.

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

73 768.21 Damages.—All potential beneficiaries of a recovery
74 for wrongful death, including the decedent's estate, shall be
75 identified in the complaint, and their relationships to the
76 decedent shall be alleged. Damages may be awarded as follows:

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

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

83 (a) Loss of earnings of the deceased from the date of
84 injury to the date of death, less lost support of survivors
85 excluding contributions in kind, with interest. Loss of the
86 prospective net accumulations of an estate, which might
87 reasonably have been expected but for the wrongful death,

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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 or an unborn child as those terms are defined in s. 768.18 ~~s. 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, 2026.