

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 or against a health care provider for
10 legal medical care provided in certain circumstances;
11 amending s. 768.21, F.S.; authorizing parents of an
12 unborn child to recover certain damages; prohibiting
13 the recovery of certain damages if the decedent is an
14 unborn child; conforming a cross-reference; providing
15 an effective date.

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

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

21 768.18 Definitions.—As used in ss. 768.16-768.26:
22 (1)~~(2)~~ "Minor children" means children under 25 years of
23 age, notwithstanding the age of majority.
24 (2)~~(5)~~ "Net accumulations" means the part of the
25 decedent's expected net business or salary income, including

26 pension benefits, that the decedent probably would have retained
27 as savings and left as part of her or his estate if the decedent
28 had lived her or his normal life expectancy. "Net business or
29 salary income" is the part of the decedent's probable gross
30 income after taxes, excluding income from investments continuing
31 beyond death, that remains after deducting the decedent's
32 personal expenses and support of survivors, excluding
33 contributions in kind.

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

40 (4)~~(3)~~ "Support" includes contributions in kind as well as
41 money.

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

50 (6) "Unborn child" has the same meaning as in s.

51 775.021(5)(e).

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

54 768.19 Right of action.—

55 (1) When the death of a person is caused by the wrongful
56 act, negligence, default, or breach of contract or warranty of
57 any person, including those occurring on navigable waters, and
58 the event would have entitled the person injured to maintain an
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 health care provider, as defined in s. 766.202, for legal
68 medical care including, but not limited to, care related to
69 assisted reproductive technologies, as defined in s. 742.13,
70 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,
88 reduced to present money value, may also be recovered:

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

91 2. If the decedent is not a minor child or an unborn child
92 as those terms are defined in s. 768.18 ~~s. 768.18(2)~~, there are
93 no lost support and services recoverable under subsection (1),
94 and there is a surviving parent.

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

97 **Section 4.** This act shall take effect July 1, 2026.