

Bill No. SB 1974

Barcode 743242

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Judiciary (Posey) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. The Legislature finds that current law inadequately addresses rights of action related to prenatal deaths resulting from negligent acts in other than medical or criminal situations.

Section 2. Section 768.38, Florida Statutes, is created to read:

768.38 Right of action for prenatal death caused by negligence of another.--

(1) In any lawsuit filed in this state under current law, where medical negligence as defined in s. 766.106(1) is not at issue and without expanding or restricting current law with regard to medical negligence, when it is alleged that a pregnancy was wrongfully ended by the negligence of another person or entity, the trier of fact may consider the following

Bill No. SB 1974

Barcode 743242

1 evidence in evaluating a claim for damages for the mental pain
2 and suffering of the parents:

3 (a) Characteristics of the unborn fetus, including,
4 but not limited to, the sex and the name chosen before the
5 pregnancy was negligently terminated; and

6 (b) The circumstances surrounding the loss of the
7 pregnancy.

8 (2) The fetus may be referred to as a son or daughter,
9 as a child, or by its chosen name.

10 Section 3. This act shall take effect upon becoming a
11 law and applies to all actions in which the stillbirth occurs
12 after the effective date of the act.

13
14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete everything before the enacting clause

18
19

and insert:

20 A bill to be entitled
21 An act relating to a cause of action for
22 prenatal death caused by negligence; creating
23 s. 768.38, F.S.; providing for the
24 admissibility of certain evidence in evaluating
25 a claim for damages for the mental pain and
26 suffering of the parents in an action alleging
27 that a pregnancy was wrongfully ended by the
28 negligence of another; providing findings and
29 intent; providing an effective date.

30
31