

CHAMBER ACTION

1 The Judiciary Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the admissibility of evidence in an
7 action alleging that a pregnancy was wrongfully ended by
8 another's negligence; creating s. 768.38, F.S.; providing
9 for the admissibility of certain evidence in evaluating a
10 claim for damages for the mental pain and suffering of the
11 parents in an action alleging that a pregnancy was
12 wrongfully ended by the negligence of another; providing
13 intent; providing an effective date.

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

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17 Section 1. Section 768.38, Florida Statutes, is created to
18 read:

19 768.38 Evidence in an action alleging pregnancy was ended
20 by another's negligence.--

21 (1) In any lawsuit filed in this state under current law
22 in which it is alleged that a pregnancy was wrongfully ended by
23 the negligence of another person or entity, the trier of fact

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24 | may consider the following evidence in evaluating a claim for
25 | damages for the mental pain and suffering of the mother and
26 | father:

27 | (a) Characteristics of the unborn fetus, including, but
28 | not limited to, the sex and the name chosen before the pregnancy
29 | was negligently terminated.

30 | (b) The circumstances surrounding the loss of the
31 | pregnancy.

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

34 | (3) Nothing contained in this section creates a new cause
35 | of action not otherwise recognized by current law.

36 | (4) The intent of this section is to codify existing law
37 | and, therefore, it shall neither expand nor restrict the law as
38 | it exists on the effective date of this act.

39 | Section 2. This act shall take effect upon becoming a law.