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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/17/2023	.	
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The Committee on Fiscal Policy (Osgood) recommended the following:

1           **Senate Amendment to Substitute Amendment (344956) (with**  
2 **title amendment)**

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4           Between lines 662 and 663  
5 insert:

6           Section 9. Subsection (1) of section 768.18, Florida  
7 Statutes, is amended to read:

8           768.18 Definitions.—As used in ss. 768.16–768.26:

9           (1) "Survivors" means the decedent's spouse, children,  
10 parents, and, when partly or wholly dependent on the decedent



11 for support or services, any blood relatives and adoptive  
12 brothers and sisters. It includes the child born out of wedlock  
13 of a mother, but not the child born out of wedlock of the father  
14 unless the father has recognized a responsibility for the  
15 child's support. It also includes the parents of an unborn  
16 fetus.

17 Section 10. Present subsections (5) through (8) of section  
18 768.21, Florida Statutes, are redesignated as subsections (6)  
19 through (9), respectively, and a new subsection (5) is added to  
20 that section, to read:

21 768.21 Damages.—All potential beneficiaries of a recovery  
22 for wrongful death, including the decedent's estate, shall be  
23 identified in the complaint, and their relationships to the  
24 decedent shall be alleged. Damages may be awarded as follows:

25 (5) Each parent of an unborn fetus may recover for medical  
26 and funeral expenses and mental pain and suffering caused by the  
27 death of an unborn fetus if such death was caused by the  
28 negligence of a third party.

29 Section 11. Subsection (9) of section 400.023, Florida  
30 Statutes, is amended to read:

31 400.023 Civil enforcement.—

32 (9) An action under this part for a violation of rights or  
33 negligence recognized herein is not a claim for medical  
34 malpractice, and s. 768.21(9) ~~s. 768.21(8)~~ does not apply to a  
35 claim alleging death of the resident.

36 Section 12. Section 400.0235, Florida Statutes, is amended  
37 to read:

38 400.0235 Certain provisions not applicable to actions under  
39 this part.—An action under this part for a violation of rights



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40 or negligence recognized under this part is not a claim for  
41 medical malpractice, and the provisions of s. 768.21(9) ~~s.~~  
42 ~~768.21(8)~~ do not apply to a claim alleging death of the  
43 resident.

44 Section 13. Section 429.295, Florida Statutes, is amended  
45 to read:

46 429.295 Certain provisions not applicable to actions under  
47 this part.—An action under this part for a violation of rights  
48 or negligence recognized herein is not a claim for medical  
49 malpractice, and the provisions of s. 768.21(9) ~~s. 768.21(8)~~ do  
50 not apply to a claim alleging death of the resident.

51

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

53 And the title is amended as follows:

54 Delete line 951

55 and insert:

56 providing construction; amending s. 768.18, F.S.;

57 revising the definition of the term "survivors" for

58 purposes of the Florida Wrongful Death Act; amending

59 s. 768.21, F.S.; authorizing parents of an unborn

60 fetus to recover certain damages caused by the death

61 of the unborn fetus if such death was caused by a

62 third party's negligence; amending ss. 400.023,

63 400.0235, and 429.295, F.S.; conforming cross-

64 references; amending s. 768.81, F.S.;