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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/22/2023 05:55 PM

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Senator Grall moved the following:

**Senate Amendment (with title amendment)**

Between lines 723 and 724

insert:

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

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

(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



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12 of a mother, but not the child born out of wedlock of the father  
13 unless the father has recognized a responsibility for the  
14 child's support. It also includes the parents of an unborn  
15 fetus.

16 Section 10. Present subsections (5) through (8) of section  
17 768.21, Florida Statutes, are redesignated as subsections (6)  
18 through (9), respectively, a new subsection (5) is added to that  
19 section, and paragraph (b) of present subsection (6) of that  
20 section is amended, 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) Except for claims brought under chapter 766, each  
26 parent of an unborn fetus may recover for medical and funeral  
27 expenses and mental pain and suffering caused by the wrongful  
28 death of the unborn fetus if such death was caused by the  
29 negligence of a third party.

30 (7) ~~(6)~~ The decedent's personal representative may recover  
31 for the decedent's estate the following:

32 (b) Medical or funeral expenses due to the decedent's  
33 injury or death that have become a charge against her or his  
34 estate or that were paid by or on behalf of decedent, excluding  
35 amounts recoverable under subsection (6) ~~(5)~~.

36  
37 Evidence of remarriage of the decedent's spouse is admissible.

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

40 400.023 Civil enforcement.—



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

45 Section 12. Section 400.0235, Florida Statutes, is amended  
46 to read:

47 400.0235 Certain provisions not applicable to actions under  
48 this part.—An action under this part for a violation of rights  
49 or negligence recognized under this part is not a claim for  
50 medical malpractice, and the provisions of s. 768.21(9) ~~s.  
51 768.21(8)~~ do not apply to a claim alleging death of the  
52 resident.

53 Section 13. Section 429.295, Florida Statutes, is amended  
54 to read:

55 429.295 Certain provisions not applicable to actions under  
56 this part.—An action under this part for a violation of rights  
57 or negligence recognized herein is not a claim for medical  
58 malpractice, and the provisions of s. 768.21(9) ~~s. 768.21(8)~~ do  
59 not apply to a claim alleging death of the resident.

60  
61 ===== T I T L E A M E N D M E N T =====

62 And the title is amended as follows:

63 Delete line 42

64 and insert:

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

66 revising the definition of the term "survivors" for

67 purposes of the Florida Wrongful Death Act; amending

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

69 fetus to recover, except under certain claims, certain



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70 damages caused by the wrongful death of the unborn  
71 fetus if such death was caused by a third party's  
72 negligence; amending ss. 400.023, 400.0235, and  
73 429.295, F.S.; conforming cross-references; amending  
74 s. 768.81, F.S.;