



324718

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2024	.	
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The Committee on Judiciary (Grall) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

(1)~~(2)~~ "Minor children" means children under 25 years of  
age, notwithstanding the age of majority.

(2)~~(5)~~ "Net accumulations" means the part of the decedent's  
expected net business or salary income, including pension



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12 benefits, that the decedent probably would have retained as  
13 savings and left as part of her or his estate if the decedent  
14 had lived her or his normal life expectancy. "Net business or  
15 salary income" is the part of the decedent's probable gross  
16 income after taxes, excluding income from investments continuing  
17 beyond death, that remains after deducting the decedent's  
18 personal expenses and support of survivors, excluding  
19 contributions in kind.

20 (3)~~(4)~~ "Services" means tasks, usually of a household  
21 nature, regularly performed by the decedent that will be a  
22 necessary expense to the survivors of the decedent. These  
23 services may vary according to the identity of the decedent and  
24 survivor and shall be determined under the particular facts of  
25 each case.

26 (4)~~(3)~~ "Support" includes contributions in kind as well as  
27 money.

28 (5)~~(1)~~ "Survivors" means the decedent's spouse, children,  
29 parents, and, when partly or wholly dependent on the decedent  
30 for support or services, any blood relatives and adoptive  
31 brothers and sisters. It includes the child born out of wedlock  
32 of a mother, but not the child born out of wedlock of the father  
33 unless the father has recognized a responsibility for the  
34 child's support. It also includes the parents of an unborn  
35 child.

36 Section 2. Section 768.19, Florida Statutes, is amended to  
37 read:

38 768.19 Right of action.—

39 (1) When the death of a person is caused by the wrongful  
40 act, negligence, default, or breach of contract or warranty of



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41 any person, including those occurring on navigable waters, and  
42 the event would have entitled the person injured to maintain an  
43 action and recover damages if death had not ensued, the person  
44 or watercraft that would have been liable in damages if death  
45 had not ensued shall be liable for damages as specified in this  
46 act notwithstanding the death of the person injured, although  
47 death was caused under circumstances constituting a felony.

48 (2) Notwithstanding any other provision of this act, a  
49 wrongful death action for the death of an unborn child may not  
50 be brought against the mother of the unborn child.

51 Section 3. Subsection (4) and paragraph (a) of subsection  
52 (6) of section 768.21, Florida Statutes, are amended to read:

53 768.21 Damages.—All potential beneficiaries of a recovery  
54 for wrongful death, including the decedent's estate, shall be  
55 identified in the complaint, and their relationships to the  
56 decedent shall be alleged. Damages may be awarded as follows:

57 (4) Each parent of a deceased minor child or an unborn  
58 child may also recover for mental pain and suffering from the  
59 date of injury. Each parent of an adult child may also recover  
60 for mental pain and suffering if there are no other survivors.

61 (6) The decedent's personal representative may recover for  
62 the decedent's estate the following:

63 (a) Loss of earnings of the deceased from the date of  
64 injury to the date of death, less lost support of survivors  
65 excluding contributions in kind, with interest. Loss of the  
66 prospective net accumulations of an estate, which might  
67 reasonably have been expected but for the wrongful death,  
68 reduced to present money value, may also be recovered:

69 1. If the decedent's survivors include a surviving spouse



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70 or lineal descendants; or

71 2. If the decedent is not a minor child as defined in s.  
72 768.18 ~~s. 768.18(2)~~, there are no lost support and services  
73 recoverable under subsection (1), and there is a surviving  
74 parent.

75  
76 Evidence of remarriage of the decedent's spouse is admissible.

77 Section 4. This act shall take effect July 1, 2024.

78  
79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete everything before the enacting clause  
82 and insert:

83 A bill to be entitled  
84 An act relating to civil liability for the wrongful  
85 death of an unborn child; reordering and amending s.  
86 768.18, F.S.; revising the definition of the term  
87 "survivors" to include the parents of an unborn child;  
88 amending s. 768.19, F.S.; prohibiting a right of  
89 action against the mother for the wrongful death of an  
90 unborn child; amending s. 768.21, F.S.; authorizing  
91 parents of an unborn child to recover certain damages;  
92 conforming a cross-reference; providing an effective  
93 date.