

By the Committee on Judiciary; and Senator Grall

590-02927-24

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1                                   A bill to be entitled  
2       An act relating to civil liability for the wrongful  
3       death of an unborn child; reordering and amending s.  
4       768.18, F.S.; revising the definition of the term  
5       "survivors" to include the parents of an unborn child;  
6       amending s. 768.19, F.S.; prohibiting a right of  
7       action against the mother for the wrongful death of an  
8       unborn child; amending s. 768.21, F.S.; authorizing  
9       parents of an unborn child to recover certain damages;  
10      conforming a cross-reference; providing an effective  
11      date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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

17       768.18 Definitions.—As used in ss. 768.16-768.26:

18       (1)~~(2)~~ "Minor children" means children under 25 years of  
19      age, notwithstanding the age of majority.

20       (2)~~(5)~~ "Net accumulations" means the part of the decedent's  
21      expected net business or salary income, including pension  
22      benefits, that the decedent probably would have retained as  
23      savings and left as part of her or his estate if the decedent  
24      had lived her or his normal life expectancy. "Net business or  
25      salary income" is the part of the decedent's probable gross  
26      income after taxes, excluding income from investments continuing  
27      beyond death, that remains after deducting the decedent's  
28      personal expenses and support of survivors, excluding  
29      contributions in kind.

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30        (3)~~(4)~~ "Services" means tasks, usually of a household  
31 nature, regularly performed by the decedent that will be a  
32 necessary expense to the survivors of the decedent. These  
33 services may vary according to the identity of the decedent and  
34 survivor and shall be determined under the particular facts of  
35 each case.

36        (4)~~(3)~~ "Support" includes contributions in kind as well as  
37 money.

38        (5)~~(1)~~ "Survivors" means the decedent's spouse, children,  
39 parents, and, when partly or wholly dependent on the decedent  
40 for support or services, any blood relatives and adoptive  
41 brothers and sisters. It includes the child born out of wedlock  
42 of a mother, but not the child born out of wedlock of the father  
43 unless the father has recognized a responsibility for the  
44 child's support. It also includes the parents of an unborn  
45 child.

46        Section 2. Section 768.19, Florida Statutes, is amended to  
47 read:

48        768.19 Right of action.—

49        (1) When the death of a person is caused by the wrongful  
50 act, negligence, default, or breach of contract or warranty of  
51 any person, including those occurring on navigable waters, and  
52 the event would have entitled the person injured to maintain an  
53 action and recover damages if death had not ensued, the person  
54 or watercraft that would have been liable in damages if death  
55 had not ensued shall be liable for damages as specified in this  
56 act notwithstanding the death of the person injured, although  
57 death was caused under circumstances constituting a felony.

58        (2) Notwithstanding any other provision of this act, a

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59 wrongful death action for the death of an unborn child may not  
60 be brought against the mother of the unborn child.

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

63 768.21 Damages.—All potential beneficiaries of a recovery  
64 for wrongful death, including the decedent's estate, shall be  
65 identified in the complaint, and their relationships to the  
66 decedent shall be alleged. Damages may be awarded as follows:

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

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

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

79 1. If the decedent's survivors include a surviving spouse  
80 or lineal descendants; or

81 2. If the decedent is not a minor child as defined in s.  
82 768.18 ~~s. 768.18(2)~~, there are no lost support and services  
83 recoverable under subsection (1), and there is a surviving  
84 parent.

85  
86 Evidence of remarriage of the decedent's spouse is admissible.

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