

By the Committees on Fiscal Policy; and Judiciary; and Senator
Grall

594-03395-24

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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 defining the term "unborn child"; amending s. 768.19,
7 F.S.; prohibiting a right of action against the mother
8 for the wrongful death of an unborn child; amending s.
9 768.21, F.S.; authorizing parents of an unborn child
10 to recover certain damages; conforming a cross-
11 reference; providing an effective date.

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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 (6) "Unborn child" has the same meaning as in s.
47 775.021(5)(e).

48 Section 2. Section 768.19, Florida Statutes, is amended to
49 read:

50 768.19 Right of action.—

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

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59 death was caused under circumstances constituting a felony.

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

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

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

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

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

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

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

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

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88 Evidence of remarriage of the decedent's spouse is admissible.

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