

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           providing a definition for the term "unborn child";  
 7           amending s. 768.19, F.S.; prohibiting a right of  
 8           action against the mother for the wrongful death of an  
 9           unborn child or against a medical provider for lawful  
 10          medical care provided in certain circumstances;  
 11          amending s. 768.21, F.S.; authorizing parents of an  
 12          unborn child to recover certain damages; conforming a  
 13          cross-reference; providing an effective date.

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 15   Be It Enacted by the Legislature of the State of Florida:

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

19           768.18 Definitions.—As used in ss. 768.16-768.26:  
 20           (1)~~(2)~~ "Minor children" means children under 25 years of  
 21           age, notwithstanding the age of majority.  
 22           (2)~~(5)~~ "Net accumulations" means the part of the  
 23           decedent's expected net business or salary income, including  
 24           pension benefits, that the decedent probably would have retained  
 25           as savings and left as part of her or his estate if the decedent

26 | had lived her or his normal life expectancy. "Net business or  
27 | salary income" is the part of the decedent's probable gross  
28 | income after taxes, excluding income from investments continuing  
29 | beyond death, that remains after deducting the decedent's  
30 | personal expenses and support of survivors, excluding  
31 | contributions in kind.

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

38 |       ~~(4)~~(3) "Support" includes contributions in kind as well as  
39 | money.

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

48 |       (6) "Unborn child" means a member of the species *Homo*  
49 | *sapiens*, at any stage of development, who is carried in the  
50 | womb.

51           **Section 2. Section 768.19, Florida Statutes, is amended to**  
52 **read:**

53           768.19 Right of action.—

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

63           (2) Notwithstanding any other provision of this act, a  
64 wrongful death action for the death of an unborn child may not  
65 be brought against the mother of the unborn child or against a  
66 medical provider for lawful medical care provided in compliance  
67 with the applicable standard of care, including, but not limited  
68 to, care related to assisted reproductive technologies as  
69 defined in s. 742.13, provided with the consent of the mother.

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

72           768.21 Damages.—All potential beneficiaries of a recovery  
73 for wrongful death, including the decedent's estate, shall be  
74 identified in the complaint, and their relationships to the  
75 decedent shall be alleged. Damages may be awarded as follows:

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

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

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

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

90 2. If the decedent is not a minor child as defined in s.  
91 768.18 ~~s. 768.18(2)~~, there are no lost support and services  
92 recoverable under subsection (1), and there is a surviving  
93 parent.

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

96 **Section 4.** This act shall take effect July 1, 2025.