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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:
14	
15	Section 1. Section 768.18, Florida Statutes, is reordered
16	and amended to read:
17	768.18 DefinitionsAs 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
21	decedent's expected net business or salary income, including
22	pension benefits, that the decedent probably would have retained
23	as 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
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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.

30 <u>(3)-(4)</u> "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 <u>(4)-(3)</u> "Support" includes contributions in kind as well as 37 money.

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

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

48

768.19 Right of action.-

49 <u>(1)</u> When the death of a person is caused by the wrongful 50 act, negligence, default, or breach of contract or warranty of

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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
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 <u>or an unborn</u>
68 <u>child</u> 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.

(6) The decedent's personal representative may recover forthe decedent's estate the following:

(a) Loss of earnings of the deceased from the date of
injury to the date of death, less lost support of survivors
excluding contributions in kind, with interest. Loss of the

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

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