

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 340

5 By: Senators J. Hutchinson, Bledsoe, A. Clark, Collins-Smith, Hester, B. Johnson, G. Stubblefield
6 By: Representatives Pilkington, Bentley, C. Fite, Hammer, Lundstrum, B. Smith
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For An Act To Be Entitled

9 AN ACT TO CREATE THE WRONGFUL BIRTH CIVIL LIABILITY
10 PROTECTION ACT; AND FOR OTHER PURPOSES.
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Subtitle

14 TO CREATE THE WRONGFUL BIRTH CIVIL
15 LIABILITY PROTECTION ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an
21 additional subchapter to read as follows:

Subchapter 9 – Wrongful Birth Civil Liability Protection Act

16-120-901. Definitions.

As used in this subchapter:

26 (1) "Civil action for wrongful birth" means a cause of action
27 that is brought by a parent or other person who is legally required to
28 provide for the support of a child, seeking economic or noneconomic damages
29 for the child because of a condition that existed at the time of the birth of
30 the child and which is based on a claim that the act or omission of a person
31 contributed to the child being born; and

32 (2) "Civil action for wrongful life" means a cause of action
33 that is brought by or on behalf of a child, seeking economic or noneconomic
34 damages for the child because of a condition that existed at the time of the
35 birth of the child and which is based on a claim that the act or omission of
36 a person contributed to the child being born.



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16-120-902. Wrongful birth claims – Wrongful life claims.

(a) A person is not liable for damages in a civil action for wrongful birth based on a claim that, but for an act or omission of the defendant, a child would not or should not have been born.

(b) A person is not liable for damages in a civil action for wrongful life based on a claim that, but for an act or omission of the defendant, the person bringing the action would not or should not have been born.

(c) This section:

(1) Applies to a claim regardless of whether the child is born healthy or with a birth defect or other medical condition;

(2) Does not apply to a civil action for damages for an intentional, reckless, or grossly negligent act or omission, including without limitation an act or omission that violates a criminal law; and

(3) Does not limit or eliminate liability for an act or omission that is a proximate cause of any injury to the child before, during, or after birth.