

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
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE WRONGFUL BIRTH CIVIL LIABILITY
10 PROTECTION ACT; AND FOR OTHER PURPOSES.
11

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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2 16-120-902. Wrongful birth claims – Wrongful life claims.

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

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

9 (c) This section:

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

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

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

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20 **APPROVED: 03/06/2017**
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