

**WRONGFUL DEATH OF UNBORN CHILD**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl Wimmer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill provides a civil action for the wrongful death of an unborn child.

**Highlighted Provisions:**

This bill:

- ▶ allows a suit to be brought for the wrongful death of an unborn child.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**78B-3-102**, as last amended by Laws of Utah 2009, Chapter 79

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78B-3-102** is amended to read:

**78B-3-102. Injury or death of a child -- Suit by parent or guardian.**

(1) As used in this section:

(a) "Child" means a person under 18 years of age or viable unborn fetus.

(b) "Viable" means that the unborn child has reached a state of fetal development when the unborn child is potentially able to live outside the womb.



28            [~~(1)~~] (2) Except as provided in Title 34A, Chapter 2, Workers' Compensation Act, a  
29 parent or guardian may bring an action for the injury or death of a [~~minor~~] child when the  
30 injury or death is caused by the wrongful act or neglect of another.

31            [~~(2)~~] (3) A civil action may be maintained against the person causing the injury or  
32 death or, if the person is employed by another person who is responsible for that person's  
33 conduct, also against the employer.

34            [~~(3)~~] (4) If a parent, stepparent, adoptive parent, or legal guardian is the alleged  
35 defendant in an action for the injury of a child, a guardian ad litem may be appointed for the  
36 injured child according to the procedures outlined in Section 78A-2-227.

37            (5) This section does not apply to the death of an unborn child caused by an abortion as  
38 defined in Section 76-7-301.

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**Legislative Review Note**  
as of 2-18-10 4:42 PM

**Office of Legislative Research and General Counsel**

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**H.B. 372 - Wrongful Death of Unborn Child**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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