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| PREVAILED | Roll Call No. _____ |
| FAILED | Ayes _____ |
| WITHDRAWN | Noes _____ |
| RULED OUT OF ORDER | |

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 86 be amended to read as follows:

- 1 Page 32, between lines 19 and 20, begin a new paragraph and insert:
- 2 "SECTION 25. IC 34-23-2-1, AS AMENDED BY P.L.3-2008,
- 3 SECTION 242, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This section does not apply**
- 5 **to an abortion performed in compliance with:**
- 6 **(1) IC 16-34; or**
- 7 **(2) IC 35-1-58.5 (before its repeal).**
- 8 ~~(a)~~ **(b)** As used in this section, "child" means an unmarried
- 9 individual without dependents who is:
- 10 (1) less than twenty (20) years of age; or
- 11 (2) less than twenty-three (23) years of age and is enrolled in a
- 12 postsecondary educational institution or a career and technical
- 13 education school or program that is not a postsecondary
- 14 educational program.
- 15 **The term includes a child in utero as verified by medical evidence**
- 16 **and a medical record.**
- 17 **(c) As used in this section, "child in utero" means a member of**
- 18 **the species homo sapiens, at any stage of development, who is**
- 19 **carried in the womb.**
- 20 ~~(b)~~ **(d)** An action may be maintained under this section against the
- 21 person whose wrongful act or omission caused the injury or death of a
- 22 child. The action may be maintained by:
- 23 (1) the father and mother jointly, or either of them by naming the
- 24 other parent as a codefendant to answer as to his or her interest;

- 1 (2) in case of divorce or dissolution of marriage, the person to
 2 whom custody of the child was awarded; and
 3 (3) a guardian, for the injury or death of a protected person.
- 4 ~~(c)~~ **(e)** In case of death of the person to whom custody of a child was
 5 awarded, a personal representative shall be appointed to maintain the
 6 action for the injury or death of the child.
- 7 ~~(d)~~ **(f)** In an action brought by a guardian for an injury to a protected
 8 person, the damages inure to the benefit of the protected person.
- 9 ~~(e)~~ **(g)** In an action to recover for the death of a child, the plaintiff
 10 may recover damages:
- 11 (1) for the loss of the child's services;
 12 (2) for the loss of the child's love and companionship; and
 13 (3) to pay the expenses of:
- 14 (A) health care and hospitalization necessitated by the
 15 wrongful act or omission that caused the child's death;
 16 (B) the child's funeral and burial;
 17 (C) the reasonable expense of psychiatric and psychological
 18 counseling incurred by a surviving parent or minor sibling of
 19 the child that is required because of the death of the child;
 20 (D) uninsured debts of the child, including debts for which a
 21 parent is obligated on behalf of the child; and
 22 (E) the administration of the child's estate, including
 23 reasonable attorney's fees.
- 24 ~~(f)~~ **(h)** Damages may be awarded under this section only with
 25 respect to the period of time from the death of the child until:
- 26 (1) the date that the child would have reached:
- 27 (A) twenty (20) years of age; or
 28 (B) twenty-three (23) years of age, if the child was enrolled in
 29 a postsecondary educational institution or in a career and
 30 technical education school or program that is not a
 31 postsecondary educational program; or
 32 (2) the date of the child's last surviving parent's death;
 33 whichever first occurs.
- 34 ~~(g)~~ **(i)** Damages may be awarded under subsection ~~(c)(2)~~ **(g)(2)** only
 35 with respect to the period of time from the death of the child until the
 36 date of the child's last surviving parent's death.
- 37 ~~(h)~~ **(j)** Damages awarded under subsection ~~(c)(1)~~, ~~(c)(2)~~, ~~(c)(3)(C)~~;
 38 **(g)(1)**, **(g)(2)**, **(g)(3)(C)**, and ~~(c)(3)(D)~~ **(g)(3)(D)** inure to the benefit of:
- 39 (1) the father and mother jointly if both parents had custody of the
 40 child;
 41 (2) the custodial parent, or custodial grandparent, and the
 42 noncustodial parent of the deceased child as apportioned by the
 43 court according to their respective losses; or
 44 (3) a custodial grandparent of the child if the child was not
 45 survived by a parent entitled to benefit under this section.
 46 However, a parent or grandparent who abandoned a deceased child

1 while the child was alive is not entitled to any recovery under this
2 chapter.

3 **(k) This section does not affect or supersede any other right,**
4 **remedy, or defense provided by any other law.**

5 SECTION 6. [EFFECTIVE JULY 1, 2009] **IC 34-23-2-1, as**
6 **amended by this act, applies only to a cause of action that accrues**
7 **after June 30, 2009."**

8 Renumber all SECTIONS consecutively.
(Reference is to ESB 86 as printed April 10, 2009.)

Representative Walorski