

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 371 be amended to read as follows:

- 1 Page 8, after line 19, begin a new paragraph and insert:
- 2 "SECTION 8. IC 34-23-2-1, AS AMENDED BY P.L.129-2009,
- 3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2013]: Sec. 1. (a) This section does not apply to an abortion
- 5 performed in compliance with:
- 6 (1) IC 16-34; or
- 7 (2) IC 35-1-58.5 (before its repeal).
- 8 (b) As used in this section, "child" means an unmarried individual
- 9 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 fetus that has attained viability (as defined in
- 16 ~~IC 16-18-2-365~~); a child in utero as verified by medical evidence
- 17 and a medical record.
- 18 (c) As used in this section, "child in utero" means a member of
- 19 the species homo sapiens, at any stage of development, who is
- 20 carried in the womb.
- 21 ~~(c)~~ (d) An action may be maintained under this section against the
- 22 person whose wrongful act or omission caused the injury or death of a
- 23 child. The action may be maintained by:
- 24 (1) the father and mother jointly, or either of them by naming the

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

1 survived by a parent entitled to benefit under this section.
2 However, a parent or grandparent who abandoned a deceased child
3 while the child was alive is not entitled to any recovery under this
4 chapter.
5 (†) (k) This section does not affect or supersede any other right,
6 remedy, or defense provided by any other law.
7 SECTION 9. [EFFECTIVE JULY 1, 2013] (a) **IC 34-23-2-1, as**
8 **amended by this act, applies only to a cause of action that accrues**
9 **after June 30, 2013.**
10 **(b) This SECTION expires December 31, 2015."**
11 Renumber all SECTIONS consecutively.
 (Reference is to ESB 371 as printed March 29, 2013.)

Representative Thompson