

HOUSE BILL NO. 310

INTRODUCED BY C. SMITH, G. BENNETT, BERRY, BLYTON, BRODEHL, DOANE, EDMUNDS, FISCUS, FITZPATRICK, FLYNN, GLIMM, HAGAN, HALVORSON, HANSEN, HERTZ, HOWARD, D. JONES, KNUDSEN, LANG, LASZLOFFY, LENZ, MCNIVEN, O'HARA, OSMUNDSON, REDFIELD, REGIER, SALOMON, SHAW, VANCE, WAGONER, WELBORN, WHITE, A. WITTICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT NO CLAIMS FOR THE TORT OF WRONGFUL BIRTH OR WRONGFUL LIFE MAY BE FILED AND NO DAMAGES MAY BE RECOVERED FOR A CLAIM OF WRONGFUL BIRTH OR WRONGFUL LIFE PROHIBITING CLAIMS AND DAMAGES BASED ON THE BIRTH OF A CHILD."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Civil actions for wrongful birth or wrongful life CLAIMS AND DAMAGES BASED ON BIRTH OF CHILD prohibited. (1) ~~A person may not bring a civil action and may not be awarded any damages on a wrongful birth claim that, but for any act or omission of the defendant or other party, a child or children would not or should not have been born.~~ A CAUSE OF ACTION OR AWARD OF DAMAGES IS PROHIBITED IF THE CAUSE OF ACTION OR AWARD OF DAMAGES IS BASED ON THE CLAIM THAT, BUT FOR THE CONDUCT OF A HEALTH CARE PROVIDER, A PARENT WOULD NOT HAVE PERMITTED THE PARENT'S CHILD TO HAVE BEEN BORN.

(2) ~~A person may not bring a civil action and may not be awarded any damages on a wrongful life claim that, but for any act or omission of the defendant or other party, the person or persons bringing the action would not or should not have been born.~~ FOR THE PURPOSES OF THIS SECTION, THE TERM "HEALTH CARE PROVIDER" MEANS A HEALTH CARE FACILITY AS DEFINED IN 50-5-101 OR A PHYSICIAN, PHYSICIAN ASSISTANT, REGISTERED NURSE, ADVANCED PRACTICE REGISTERED NURSE, OR DIRECT-ENTRY MIDWIFE LICENSED UNDER TITLE 37.

(3) THIS SECTION DOES NOT APPLY TO INSTANCES OF GROSS NEGLIGENCE OR WILLFUL OR WANTON ACTS OR OMISSIONS.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].



