

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

SENATE BILL 340

By: Senators J. Hutchinson, Bledsoe, A. Clark, Collins-Smith, Hester, B. Johnson, G. Stubblefield  
By: Representatives Pilkington, Bentley, C. Fite, Hammer, Lundstrum, B. Smith

## For An Act To Be Entitled

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

## Subtitle

TO CREATE THE WRONGFUL BIRTH CIVIL  
LIABILITY PROTECTION ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an additional subchapter to read as follows:

### Subchapter 9 – Wrongful Birth Civil Liability Protection Act

#### 16-120-901. Definitions.

#### As used in this subchapter:

(1) "Civil action for wrongful birth" means a cause of action that is brought by a parent or other person who is legally required to provide for the support of a child, seeking economic or noneconomic damages for the child because of a condition that existed at the time of the birth of the child and which is based on a claim that the act or omission of a person contributed to the child being born; and

(2) "Civil action for wrongful life" means a cause of action that is brought by or on behalf of a child, seeking economic or noneconomic damages for the child because of a condition that existed at the time of the birth of the child and which is based on a claim that the act or omission of a person contributed to the child being born.



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

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

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

(c) This section:

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

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

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