

LEGISLATIVE BILL 294

Approved by the Governor April 16, 2003

Introduced by Foley, 29; Baker, 44; Bromm, 23; Burling, 33; Byars, 30; Combs, 32; Cunningham, 40; Engel, 17; Erdman, 47; Friend, 10; Hartnett, 45; Hudkins, 21; Jensen, 20; Jones, 43; Kremer, 34; Maxwell, 9; Mines, 18; Mossey, 3; Dw. Pedersen, 39; Preister, 5; Quandahl, 31; Redfield, 12; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Tyson, 19; Vrtiska, 1; McDonald, 41

AN ACT relating to unborn children; to amend section 30-809, Reissue Revised Statutes of Nebraska; to provide that the term person includes an unborn child for purposes of wrongful death actions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 30-809, Reissue Revised Statutes of Nebraska, is amended to read:

30-809. (1) Whenever the death of a person, including an unborn child in utero at any stage of gestation, is shall be caused by the wrongful act, neglect, or default, of any person, company, or corporation, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party person injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person who, or company or corporation which, would have been liable if death had not ensued, shall be is liable to in an action for damages, notwithstanding the death of the person injured, and although the death shall have been was caused under such circumstances as amount in law to felony.

(2) No action for damages for the death of a person who is an unborn child shall be brought under this section against:

(a) The mother of the unborn child;

(b) A physician or other licensed health care provider if the death was the intended result of a medical procedure performed by the physician or health care provider and the requisite consent was given; or

(c) A person who dispenses or administers a drug or device in accordance with law if the death was the intended result of the dispensation or administration of the drug or device.

Sec. 2. Original section 30-809, Reissue Revised Statutes of Nebraska, is repealed.