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nature. But, again, there are instances where a person may commit a tort, a noncriminal act, that could result in the death of a child, and this bill does provide that kind of protection, just as we provide that protection today for that born infant in my hypothetical.

SENATOR BOURNE: And, again, I support the concept in drunk driving and assaults and that type of thing. Let me ask you this question. On the other bill that you had had last year, we talked about a significant number of pregnancies end in I think it's spontaneous, I know, is abortion the proper term?

SENATOR FOLEY: I call it miscarriage, but...

SENATOR BOURNE: Okay.

SENATOR FOLEY: ...whatever term you could use.

SENATOR BOURNE: A spontaneous miscarriage. So tell me a situation. The bill says in lines 3 and 4, it says, "the death of a person, including an unborn child in utero at any stage of gestation." Now is it proven up or how is it demonstrated at trial, you know, if...say it's 20 percent or 30 percent of natural pregnancies...or pregnancies end in a natural miscarriage to begin with, how is this demonstrated at trial? What has to be shown or proved up at trial to win a civil judgment? Do you see what my question?

SENATOR FOLEY: Yes, I do, and it's a very fair question. And, again, it goes back to who has the burden of proof in these cases. The burden always rests with the plaintiff. The plaintiff must prove that the act allegedly committed by the other party is the act that resulted in the death of that child, and you have to prove that with a preponderance of the evidence.

SENATOR BOURNE: So what...is it a negligence standard? I mean what is...what elements have to be shown, if you know, to win a civil...a judgment, a civil judgment under this?

SENATOR FOLEY: It's the same elements that must be shown in any other wrongful death suit. We were not changing those aspects