

311.823 Denying or depriving a born-alive infant of care or treatment -- Duty of physician performing abortion -- Born-alive infant to be treated as legal person -- Born-alive infant to become ward of the state if parent seeks to terminate parental rights -- Construction of section's requirements -- Limitation of parent's criminal and civil liability.

- (1) A person shall not deny or deprive a born-alive infant of:
 - (a) Nourishment with the intent to cause or allow the death of the infant for any reason, including but not limited to:
 1. The infant was born with a disability;
 2. The infant is not wanted by the parent or guardian; or
 3. The infant is born-alive by natural or artificial means; or
 - (b) Medically appropriate and reasonable medical care, medical treatment, or surgical care.
- (2) (a) A physician performing an abortion shall take all medically appropriate and reasonable steps to preserve the life and health of a born-alive infant. If an abortion performed in a:
 1. Hospital results in a live birth, the physician attending the abortion shall provide immediate medical care to the infant, inform the mother of the live birth, and request transfer of the infant to an on-duty resident or emergency care physician who shall provide medically appropriate and reasonable medical care and treatment to the infant; or
 2. Medical facility other than a hospital results in a live birth, the physician attending the abortion shall provide immediate medical care to the infant and call 911 for an emergency transfer of the infant to a hospital that shall provide medically appropriate and reasonable medical care and treatment to the infant.
- (b) If the physician is unable to perform the duties in paragraph (a) of this subsection because he or she is assisting the woman on whom the abortion was performed, then an attending physician assistant, advanced practice registered nurse, nurse, or other healthcare provider shall assume the duties outlined in paragraph (a) of this subsection.
- (3) Any born-alive infant, including one born in the course of an abortion procedure, shall be treated as a legal person under the laws of this Commonwealth, with the same rights to medically appropriate and reasonable care and treatment. After birth, a birth certificate shall be issued and, if death occurs after birth, a death certificate shall be issued.
- (4) If the parent of a born-alive infant files a petition for voluntary termination of parental rights in accordance with KRS 625.040 because she or he does not wish to keep the infant, the born-alive infant shall become a ward of the Cabinet for Health and Family Services.
- (5) (a) The requirements of this section shall not be construed to prevent a born-alive infant's parent or guardian from refusing to give consent to medical care, medical treatment, or surgical care which is not medically appropriate or reasonable, including care or treatment that:

1. Is not necessary to save the life of the infant;
 2. Has a potential risk to the infant's life or health that outweighs the potential benefit of the medical care or treatment; or
 3. Will do no more than temporarily prolong the act of dying when death is imminent.
- (b) The parent or guardian of a born-alive infant shall not be held criminally or civilly liable for the actions of a physician, physician assistant, advanced practice registered nurse, nurse, or other healthcare provider that are in violation of this section and to which the parent or guardian did not give consent.

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