

213.098 Disclosure regarding fetal remains -- Forms -- Prohibited activities.

- (1) For the purposes of this section, "fetal remains" means the biological remains of a human child resulting from the termination of a pregnancy by a surgical or medication abortion prior to birth or miscarriage.
- (2)
 - (a) Within twenty-four (24) hours before a surgical or medication abortion or within twenty-four (24) hours of a miscarriage, the healthcare facility or abortion clinic shall disclose to the parent or parents of the fetus, both orally and in writing, the parents' right to determine if they will take responsibility for the final disposition of the fetal remains or relinquish the responsibility for final disposition to the healthcare facility or abortion clinic.
 - (b) If the procedure is a medication-induced abortion, the mother:
 1. Shall be informed that she will expel a fetus after leaving the healthcare facility or abortion clinic;
 2. May choose to return the fetal remains to the healthcare facility or abortion clinic for final disposition;
 3. Shall be exempted from the requirements of KRS 213.081 that require a permit for the purpose of transporting the fetal remains back to the healthcare facility or abortion clinic for final disposition; and
 4. Shall be exempted from the requirements of KRS 213.096 that require an abortion to be reported on a combination birth-death or stillbirth certificate.
 - (c) After receiving the information required by paragraphs (a) and (b) of this subsection, the parent or parents of the fetus shall inform the healthcare facility or abortion clinic of their choice for the disposition of the fetal remains by electing to either:
 1. Relinquish the guardianship of the fetal remains and the responsibility for final disposition of those remains to the guardianship of the healthcare facility or abortion clinic which shall dispose of those remains as they would any other human remains; or
 2. Retain the guardianship for the fetal remains and designate that fetal remains shall be released to the parent or parents for disposition.
 - (d) The healthcare facility or abortion clinic shall document the parent's or parents' choice for the disposition of the fetal remains in the medical record.
- (3) The cabinet shall design forms through administrative regulations that document:
 - (a) The age of the parent or parents of the fetal remains;
 - (b) In the event that the parents are under eighteen (18) years of age, have not been emancipated by court order, or have not obtained a court order granting the right to self-consent, a consent by their parent or guardian;
 - (c) The status of fetal remains resulting from an abortion for the purpose of

cremation that shall meet any requirements for a birth-death, provisional death, or death certificate for transport or cremation;

- (d) A designation of how the fetal remains shall be disposed of and who shall be responsible for the final disposition; and
 - (e) Any other information required by the cabinet.
- (4) A person or entity shall not:
- (a) Dispose of a fetus or fetal remains as medical or infectious waste;
 - (b) Offer money or anything of value for an aborted fetus or fetal remains;
 - (c) Accept money or anything of value for an aborted fetus or fetal remains; or
 - (d) Transport, or arrange for the transportation of, fetal remains for any purpose other than:
 - 1. Final disposition by a crematory licensed under KRS Chapter 367;
 - 2. Interment by a funeral establishment licensed under KRS Chapter 316;
 - 3. Interment by the parent or parents privately in conformance with KRS 381.697 and administrative regulations promulgated by the Cabinet for Health and Family Services;
 - 4. Delivery of the fetal remains to the healthcare facility or abortion clinic for final disposition;
 - 5. For law enforcement in the context of a criminal investigation with the consent of the parent; or
 - 6. To a pathology laboratory for examination of the fetal remains with the consent of the parent.

Effective: April 14, 2022

History: Created 2022 Ky. Acts ch. 210, sec. 22, effective April 14, 2022.

Legislative Research Commission Note (4/14/2022). This statute was created by 2022 Ky. Acts ch. 210, sec. 22. Section 38 of that Act states, "Sections 1 to 31 of this Act may be cited as the Humanity in Healthcare Act of 2022."