

311.772 Definitions for section -- Prohibition against intentional termination of life of an unborn human being -- When section takes effect -- Penalties not to apply to pregnant woman -- Contraception -- Appropriation of Medicaid funds.

- (1) As used in this section:
 - (a) "Fertilization" means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum;
 - (b) "Pregnant" means the human female reproductive condition of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth; and
 - (c) "Unborn human being" means an individual living member of the species homo sapiens throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.
- (2) The provisions of this section shall become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:
 - (a) Any decision of the United States Supreme Court which reverses, in whole or in part, *Roe v. Wade*, 410 U.S. 113 (1973), thereby restoring to the Commonwealth of Kentucky the authority to prohibit abortion; or
 - (b) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the Commonwealth of Kentucky the authority to prohibit abortion.
- (3)
 - (a) Except as provided in KRS 311.723, no person may knowingly:
 1. Administer to, prescribe for, procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being; or
 2. Use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.
 - (b) Any person who violates paragraph (a) of this subsection shall be guilty of a Class D felony.
- (4) The following shall not be a violation of subsection (3) of this section:
 - (a) For a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the unborn human being in a manner consistent with reasonable medical practice; or
 - (b) Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn human being.

- (5) Nothing in this section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.
- (6) Nothing in this section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.
- (7) The provisions of this section shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the President of the United States, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds pursuant to 42 U.S.C. sec. 1396 et seq.

Effective: March 27, 2025

History: Amended 2025 Ky. Acts ch. 121, sec. 22, effective March 27, 2025. --
Created 2019 Ky. Acts ch. 152, sec. 1, effective June 27, 2019.

Legislative Research Commission Note (3/27/2025). 2025 Ky. Acts ch. 121, sec. 25, provides that the Act, which amended this statute, may be cited as the Love Them Both Act of 2025.

Legislative Research Commission Note (6/27/2019). 2019 Ky. Acts ch. 152, sec. 2 provides that 2019 Ky. Acts ch. 152 may be cited as the "Human Life Protection Act." This statute was created in Section 1 of that Act.