

1 AN ACT relating to abortion.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
4 READ AS FOLLOWS:

5 ***Notwithstanding all other provisions to the contrary, all forms of abortion are***  
6 ***prohibited, without exception.***

7 ➔Section 2. KRS 211.027 is amended to read as follows:

8 The Cabinet for Health and Family Services shall promulgate reasonable rules and  
9 regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS  
10 ~~311.715~~~~[311.710]~~ to 311.810, which shall be submitted to the Legislative Research  
11 Commission in a manner prescribed in KRS Chapter 13A; the Legislative Research  
12 Commission shall refer said rules and regulations to the Interim Committee on Health and  
13 Welfare for the purpose of approval or disapproval.

14 ➔Section 3. KRS 311.720 is amended to read as follows:

15 As used in KRS ~~311.715~~~~[311.710]~~ to 311.820, and laws of the Commonwealth unless the  
16 context otherwise requires:

- 17 (1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy  
18 of a woman known to be pregnant with intent to cause fetal death;
- 19 (2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky  
20 pursuant to the provisions of KRS Chapter 216;
- 21 (3) "Consent" as used in KRS ~~311.715~~~~[311.710]~~ to 311.820 with reference to those  
22 who must give their consent shall mean an informed consent expressed by a written  
23 agreement to submit to an abortion on a written form of consent to be promulgated  
24 by the secretary for health and family services;
- 25 (4) "Cabinet" shall mean the Cabinet for Health and Family Services of the  
26 Commonwealth of Kentucky;
- 27 (5) "Fetus" shall mean a human being from fertilization until birth;

- 1 (6) "Human being" shall mean any member of the species homo sapiens from  
2 fertilization until death;
- 3 (7) "Partial-birth abortion" shall mean an abortion in which the physician performing  
4 the abortion partially vaginally delivers a living fetus before killing the fetus and  
5 completing the delivery;
- 6 (8) "Vaginally delivers a living fetus before killing the fetus" shall mean deliberately  
7 and intentionally delivers into the vagina a living fetus, or a substantial portion  
8 thereof, for the purpose of performing a procedure the physician knows will kill the  
9 fetus, and kills the fetus;
- 10 (9) "Physician" shall mean any person licensed to practice medicine in the  
11 Commonwealth or osteopathy pursuant to the provisions of this chapter;
- 12 (10) "Viability" shall mean that stage of human development when the life of the unborn  
13 child may be continued by natural or life-supportive systems outside the womb of  
14 the mother;
- 15 (11) "Accepted medical procedures" shall mean procedures of the type performed in the  
16 manner and in a facility with equipment sufficient to meet the standards of medical  
17 care which physicians engaged in the same or similar lines of work, would  
18 ordinarily exercise and devote to the benefit of their patients;
- 19 (12) "Medical emergency" means any condition which, on the basis of the physician's  
20 good faith clinical judgment, so complicates the medical condition of a pregnant  
21 female as to necessitate the immediate abortion of her pregnancy to avert her death  
22 or for which a delay will create serious risk of substantial and irreversible  
23 impairment of a major bodily function;
- 24 (13) "Medical necessity" means a medical condition of a pregnant woman that, in the  
25 reasonable judgment of the physician who is attending the woman, so complicates  
26 the pregnancy that it necessitates the immediate performance or inducement of an  
27 abortion; and

1 (14) "Probable gestational age of the embryo or fetus" means the gestational age that, in  
2 the judgment of a physician, is, with reasonable probability, the gestational age of  
3 the embryo or fetus at the time that the abortion is planned to be performed.

4 ➔Section 4. KRS 311.990 is amended to read as follows:

5 (1) Any person who violates KRS 311.250 shall be guilty of a violation.

6 (2) Any college or professor thereof violating the provisions of KRS 311.300 to  
7 311.350 shall be civilly liable on his bond for a sum not less than one hundred  
8 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,  
9 which may be recovered by an action in the name of the Commonwealth.

10 (3) Any person who presents to the county clerk for the purpose of registration any  
11 license which has been fraudulently obtained, or obtains any license under KRS  
12 311.380 to 311.510 by false or fraudulent statement or representation, or practices  
13 podiatry under a false or assumed name or falsely impersonates another practitioner  
14 or former practitioner of a like or different name, or aids and abets any person in the  
15 practice of podiatry within the state without conforming to the requirements of KRS  
16 311.380 to 311.510, or otherwise violates or neglects to comply with any of the  
17 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.  
18 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to  
19 311.510 shall be considered a separate offense.

20 (4) Each violation of KRS 311.560 shall constitute a Class D felony.

21 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under  
22 this subsection of a holder of a license or permit shall result automatically in  
23 permanent revocation of such license or permit.

24 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or  
25 interfering with the board or any of its members, or of any officer, agent, inspector,  
26 or investigator of the board or the Cabinet for Health and Family Services, in the  
27 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class

1 A misdemeanor.

2 (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a  
3 Class B misdemeanor, and, for each subsequent offense shall be a Class A  
4 misdemeanor.

5 (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a  
6 violation, and, for each subsequent offense, be a Class B misdemeanor.

7 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a  
8 separate offense.

9 ~~[(10) (a) Any person who intentionally or knowingly performs an abortion contrary to  
10 the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and~~

11 ~~(b) Any person who intentionally, knowingly, or recklessly violates the  
12 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.~~

13 ~~(11) (a) 1. Any physician who performs a partial birth abortion in violation of KRS  
14 311.765 shall be guilty of a Class D felony. However, a physician shall  
15 not be guilty of the criminal offense if the partial birth abortion was  
16 necessary to save the life of the mother whose life was endangered by a  
17 physical disorder, illness, or injury.~~

18 ~~2. A physician may seek a hearing before the State Board of Medical  
19 Licensure on whether the physician's conduct was necessary to save the  
20 life of the mother whose life was endangered by a physical disorder,  
21 illness, or injury. The board's findings, decided by majority vote of a  
22 quorum, shall be admissible at the trial of the physician. The board shall  
23 promulgate administrative regulations to carry out the provisions of this  
24 subparagraph.~~

25 ~~3. Upon a motion of the physician, the court shall delay the beginning of  
26 the trial for not more than thirty (30) days to permit the hearing, referred  
27 to in subparagraph 2. of this paragraph, to occur.~~

1       ~~(b) Any person other than a physician who performs a partial birth abortion shall~~  
2           ~~not be prosecuted under this subsection but shall be prosecuted under~~  
3           ~~provisions of law which prohibit any person other than a physician from~~  
4           ~~performing any abortion.~~

5       ~~(c) No penalty shall be assessed against the woman upon whom the partial birth~~  
6           ~~abortion is performed or attempted to be performed.~~

7       ~~(12) Any person who intentionally performs an abortion with knowledge that, or with~~  
8           ~~reckless disregard as to whether, the person upon whom the abortion is to be~~  
9           ~~performed is an unemancipated minor, and who intentionally or knowingly fails to~~  
10          ~~conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.~~

11       ~~(13) Any person who negligently releases information or documents which are~~  
12          ~~confidential under KRS 311.732 is guilty of a Class B misdemeanor.~~

13       ~~(14) Any person who performs an abortion upon a married woman either with~~  
14          ~~knowledge or in reckless disregard of whether KRS 311.735 applies to her and who~~  
15          ~~intentionally, knowingly, or recklessly fails to conform to the requirements of KRS~~  
16          ~~311.735 shall be guilty of a Class D felony.~~

17       ~~(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.~~

18       ~~(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.~~

19       ~~(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D~~  
20          ~~felony.~~

21       ~~(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.]~~

22       **(10) Any person who violates Section 1 of this Act shall be guilty of a Class D felony.**

23       ~~(11)~~~~(19) Any person who violates KRS 311.810 shall be guilty of a Class A~~  
24          ~~misdemeanor.~~

25       ~~(12)~~~~(20) Any professional medical association or society, licensed physician, or~~  
26          ~~hospital or hospital medical staff who shall have violated the provisions of KRS~~  
27          ~~311.606 shall be guilty of a Class B misdemeanor.~~

1 ~~(13)~~~~(21)~~ Any administrator, officer, or employee of a publicly owned hospital or  
2 publicly owned health care facility who performs or permits the performance of  
3 abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

4 ~~(14)~~~~(22)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

5 ~~(15)~~~~(23)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a  
6 Class A misdemeanor.

7 ~~(16)~~~~(24)~~ (a) Any person who fails to test organs, skin, or other human tissue which is  
8 to be transplanted, or violates the confidentiality provisions required by KRS  
9 311.281, shall be guilty of a Class A misdemeanor;

10 (b) Any person who has human immunodeficiency virus infection, who knows he  
11 is infected with human immunodeficiency virus, and who has been informed  
12 that he may communicate the infection by donating organs, skin, or other  
13 human tissue who donates organs, skin, or other human tissue shall be guilty  
14 of a Class D felony.

15 ~~(17)~~~~(25)~~ Any person who sells or makes a charge for any transplantable organ shall be  
16 guilty of a Class D felony.

17 ~~(18)~~~~(26)~~ Any person who offers remuneration for any transplantable organ for use in  
18 transplantation into himself shall be fined not less than five thousand dollars  
19 (\$5,000) nor more than fifty thousand dollars (\$50,000).

20 ~~(19)~~~~(27)~~ Any person brokering the sale or transfer of any transplantable organ shall be  
21 guilty of a Class C felony.

22 ~~(20)~~~~(28)~~ Any person charging a fee associated with the transplantation of a  
23 transplantable organ in excess of the direct and indirect costs of procuring,  
24 distributing, or transplanting the transplantable organ shall be fined not less than  
25 fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars  
26 (\$500,000).

27 ~~(21)~~~~(29)~~ Any hospital performing transplantable organ transplants which knowingly

1 fails to report the possible sale, purchase, or brokering of a transplantable organ  
2 shall be fined not less than ten thousand dollars (\$10,000) or more than fifty  
3 thousand dollars (\$50,000).

4 ➔Section 5. The following KRS sections are repealed:

- 5 311.710 Legislative findings.
- 6 311.723 When physician may perform abortion -- Guidelines.
- 7 311.725 Requirement of voluntary and informed written consent for abortion --  
8 Cabinet's duty to produce and make available informational materials -- Abortions  
9 in medical emergencies.
- 10 311.732 Performance of abortion upon a minor -- Definitions -- Consent requirement --  
11 Petition in District or Circuit Court -- Medical emergencies.
- 12 311.733 Severability.
- 13 311.735 Notice to spouse -- Exceptions -- Civil remedies.
- 14 311.750 Performance by other than licensed physician prohibited.
- 15 311.760 Minimum standards for performance of abortion.
- 16 311.765 Prohibition against partial-birth abortion.
- 17 311.770 Restriction on use of saline method.
- 18 311.780 Prohibition of abortion after viability -- Exceptions.