

1 AN ACT relating to abortion and declaring an emergency.

2 WHEREAS, pain receptors or nociceptors are present in an unborn child's entire
3 body no later than 16 weeks after fertilization and nerves link these receptors to the
4 brain's thalamus and subcortical plate by no later than 20 weeks; and

5 WHEREAS, by eight weeks after fertilization, the unborn child reacts to stimuli that
6 would be recognized as painful if applied to an adult human, for example, by recoiling;
7 and

8 WHEREAS, in the unborn child, application of painful stimuli is associated with
9 significant increases in stress hormones known as the stress response; and

10 WHEREAS, subjection to painful stimuli is associated with long-term harmful
11 neuro-developmental effects, such as altered pain sensitivity and, possibly, emotional,
12 behavioral, and learning disabilities later in life; and

13 WHEREAS, for the purposes of surgery on unborn children, fetal anesthesia is
14 routinely administered and is associated with a decrease in stress hormones compared to
15 their level when painful stimuli are applied without the anesthesia; and

16 WHEREAS, the position, asserted by some medical experts, that the unborn child is
17 incapable of experiencing pain until a point later in pregnancy than 20 weeks after
18 fertilization, which point in the pregnancy is generally consistent with 22 weeks
19 following the woman's last menstrual cycle, predominately rests on the assumption that
20 the ability to experience pain depends on the cerebral cortex and requires nerve
21 connections between the thalamus and the cortex. However, recent medical research and
22 analysis, especially since 2007, provides strong evidence for the conclusion that a
23 functioning cortex is not necessary to experience pain; and

24 WHEREAS, substantial evidence indicates that children born missing the bulk of
25 the cerebral cortex, those with hydranencephaly, nevertheless experience pain; and

26 WHEREAS, in adults, stimulation or ablation of the cerebral cortex does not alter
27 pain perception while stimulation or ablation of the thalamus does; and

1 WHEREAS, substantial evidence indicates that structures used for pain processing
2 in early development differ from those of adults, using different neural elements available
3 at specific times during development, such as the subcortical plate, to fulfill the role of
4 pain processing; and

5 WHEREAS, consequently, there is substantial medical evidence that an unborn
6 child is capable of experiencing pain 20 weeks after fertilization; and

7 WHEREAS, it is the purpose of the state to assert a compelling state interest in
8 protecting the lives of unborn children from the stage at which substantial medical
9 evidence indicates that they are capable of feeling pain;

10 NOW, THEREFORE,

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

12 ➔SECTION 1. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
13 TO READ AS FOLLOWS:

14 ***As used in Sections 1 to 6 of this Act:***

15 ***(1) "Fertilization" means the fusion of a human spermatozoon with a human ovum;***

16 ***(2) "Medical emergency" means a condition that in the physician's reasonable***
17 ***medical judgment, based upon the facts known to the physician at that time, so***
18 ***complicates the woman's pregnancy as to necessitate the immediate performance***
19 ***or inducement of an abortion in order to prevent the death of the pregnant***
20 ***woman or to avoid a serious risk of the substantial and irreversible impairment of***
21 ***a major bodily function of the pregnant woman that delay in the performance or***
22 ***inducement of the abortion would create;***

23 ***(3) "Pain-capable unborn child" means an unborn child of a probable post-***
24 ***fertilization age of twenty (20) weeks or more;***

25 ***(4) "Physician" has the same meaning as in KRS 311.720;***

26 ***(5) "Post-fertilization age" means the age of the unborn child as calculated from the***
27 ***fusion of a human spermatozoon with a human ovum;***

1 (6) "Probable post-fertilization age" means, in reasonable medical judgment and
2 with reasonable probability, the age of the unborn child, as calculated from
3 fertilization, at the time the abortion is performed or induced or attempted to be
4 performed or induced;

5 (7) "Reasonable medical judgment" means a medical judgment that would be made
6 by a reasonably prudent physician, knowledgeable about the case and the
7 treatment possibilities with respect to the medical conditions involved;

8 (8) "Serious risk of the substantial and irreversible impairment of a major bodily
9 function" means any medically diagnosed condition that so complicates the
10 pregnancy of the woman as to directly or indirectly cause the substantial and
11 irreversible impairment of a major bodily function. A medically diagnosed
12 condition that constitutes a "serious risk of the substantial and irreversible
13 impairment of a major bodily function" includes pre-eclampsia, inevitable
14 abortion, and premature rupture of the membranes, but does not include a
15 condition related to the woman's mental health; and

16 (9) "Unborn child" means an individual organism of the species homo sapiens from
17 fertilization until live birth.

18 ➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
19 TO READ AS FOLLOWS:

20 (1) No person shall intentionally perform or induce or intentionally attempt to
21 perform or induce an abortion on a pregnant woman when the probable post-
22 fertilization age of the unborn child is twenty (20) weeks or greater.

23 (2) It shall be an affirmative defense to a charge under subsection (1) of this section
24 that the abortion was intentionally performed or induced or intentionally
25 attempted to be performed or induced by a physician and that the physician
26 determined, in the physician's reasonable medical judgment, based on the facts
27 known to the physician at that time, that either of the following applied:

1 (a) The probable post-fertilization age of the unborn child was less than twenty
2 (20) weeks; or

3 (b) The abortion was necessary to prevent the death of the pregnant woman or
4 to avoid a serious risk of the substantial and irreversible impairment of a
5 major bodily function of the pregnant woman. No abortion shall be
6 necessary if it is based on a claim or diagnosis that the pregnant woman
7 will engage in conduct that would result in her death or in substantial and
8 irreversible impairment of a major bodily function or if it is based on any
9 reason related to her mental health.

10 (3) (a) Except when a medical emergency exists that prevents compliance with
11 Section 3 of this Act, the affirmative defense set forth in subsection (2)(a) of
12 this section does not apply unless the physician who intentionally performs
13 or induces or intentionally attempts to perform or induce the abortion
14 makes a determination of the probable post-fertilization age of the unborn
15 child as required by subsection (1) of Section 3 of this Act or relied upon
16 such a determination made by another physician and certifies in writing,
17 based on the results of the tests performed, that in the physician's
18 reasonable medical judgment the unborn child's probable post-fertilization
19 age is less than twenty (20) weeks.

20 (b) Except when a medical emergency exists that prevents compliance with one
21 or more of the following conditions, the affirmative defense set forth in
22 subsection (2)(b) of this section does not apply unless the physician who
23 intentionally performs or induces or intentionally attempts to perform or
24 induce the abortion complies with all of the following conditions:

25 1. The physician who intentionally performs or induces or intentionally
26 attempts to perform or induce the abortion certifies in writing that, in
27 the physician's reasonable medical judgment, based on the facts

- 1 known to the physician at that time, the abortion is necessary to
2 prevent the death of the pregnant woman or to avoid a serious risk of
3 the substantial and irreversible impairment of a major bodily function
4 of the pregnant woman;
- 5 2. A different physician not professionally related to the physician
6 described in subparagraph 1. of this paragraph certifies in writing
7 that, in that different physician's reasonable medical judgment, based
8 on the facts known to that different physician at that time, the
9 abortion is necessary to prevent the death of the pregnant woman or to
10 avoid a serious risk of the substantial and irreversible impairment of a
11 major bodily function of the pregnant woman;
- 12 3. The physician intentionally performs or induces or intentionally
13 attempts to perform or induce the abortion in a hospital or other
14 health care facility that has appropriate neonatal services for
15 premature infants;
- 16 4. The physician who intentionally performs or induces or intentionally
17 attempts to perform or induce the abortion terminates or attempts to
18 terminate the pregnancy in the manner that provides the best
19 opportunity for the unborn child to survive, unless that physician
20 determines, in the physician's reasonable medical judgment, based on
21 the facts known to the physician at that time, that the termination of
22 the pregnancy in that manner poses a greater risk of death of the
23 pregnant woman or a greater risk of the substantial and irreversible
24 impairment of a major bodily function of the pregnant woman than
25 would other available methods of abortion;
- 26 5. The physician certifies in writing the available method or techniques
27 considered and the reasons for choosing the method or technique

1 employed; and

2 6. The physician who intentionally performs or induces or intentionally
3 attempts to perform or induce the abortion has arranged for the
4 attendance in the same room in which the abortion is to be performed
5 or induced or attempted to be performed or induced at least one (1)
6 other physician who is to take control of, provide immediate medical
7 care for, and take all reasonable steps necessary to preserve the life
8 and health of the unborn child immediately upon the child's complete
9 expulsion or extraction from the pregnant woman.

10 (4) The state board of medical licensure shall revoke a physician's license to practice
11 medicine in this state if the physician violates or fails to comply with this section.

12 (5) Any physician who intentionally performs or induces or intentionally attempts to
13 perform or induce an abortion on a pregnant woman with actual knowledge that
14 neither of the affirmative defenses set forth in subsection (2) of this section
15 applies, or with a heedless indifference as to whether either affirmative defense
16 applies, is liable in a civil action for compensatory and punitive damages and
17 reasonable attorney's fees to any person, or the representative of the estate of any
18 person including but not limited to an unborn child, who sustains injury, death,
19 or loss to person or property as the result of the performance or inducement or
20 the attempted performance or inducement of the abortion. In any action under
21 this subsection, the court also may award any injunctive or other equitable relief
22 that the court considers appropriate.

23 (6) A pregnant woman on whom an abortion is intentionally performed or induced
24 or intentionally attempted to be performed or induced in violation of subsection
25 (1) of this section is not guilty of violating subsection (1) of this section or of
26 attempting to commit, conspiring to commit, or complicity in committing a
27 violation of subsection (1) of this section.

1 ➔SECTION 3. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
2 TO READ AS FOLLOWS:

3 (1) Except in a medical emergency that prevents compliance with this section, no
4 physician shall intentionally perform or induce or intentionally attempt to
5 perform or induce an abortion on a pregnant woman unless, prior to the
6 performance or inducement of the abortion or the attempt to perform or induce
7 the abortion, the physician determines, in the physician's reasonable medical
8 judgment, the unborn child's probable post-fertilization age. The physician shall
9 make that determination after making inquiries of the pregnant woman and
10 performing any medical examinations or tests of the pregnant woman the
11 physician considers necessary as a reasonably prudent physician, knowledgeable
12 about the case and medical conditions involved, would consider necessary to
13 determine the unborn child's probable post-fertilization age.

14 (2) Except in a medical emergency that prevents compliance with this section, no
15 physician shall intentionally perform or induce or intentionally attempt to
16 perform or induce an abortion on a pregnant woman after the unborn child
17 reaches the probable post-fertilization age of twenty (20) weeks without first
18 entering the determination made in subsection (1) of this section and the
19 associated findings of the medical examination and tests in the medical record of
20 the pregnant woman.

21 (3) The state board of medical licensure shall suspend a physician's license to
22 practice medicine in this state for a period of not less than six (6) months if the
23 physician violates this section.

24 ➔SECTION 4. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
25 TO READ AS FOLLOWS:

26 (1) As used in this section:

27 (a) "Conduct" means the:

- 1 1. Filing of a civil action;
- 2 2. Assertion of a claim, defense, or other position in connection with a
- 3 civil action;
- 4 3. Filing of a pleading, motion, or other document in a civil action,
- 5 including but not limited to a motion filed for discovery purposes; or
- 6 4. Taking of any other action in connection with a civil action; and

7 (b) "Frivolous conduct" means the conduct of a party to a civil action or a
8 party's counsel of record in a civil action that:

- 9 1. Obviously serves merely to harass or maliciously injure another party
- 10 to the civil action or is for another improper purpose, including but
- 11 not limited to causing unnecessary delay or a needless increase in the
- 12 cost of litigation;
- 13 2. Is not warranted under existing law, cannot be supported by a good-
- 14 faith argument for an extension, modification, or reversal of existing
- 15 law, or cannot be supported by a good-faith argument for the
- 16 establishment of new law;
- 17 3. Consists of allegations or other factual contentions that have no
- 18 evidentiary support or, if specifically so identified, are not likely to
- 19 have evidentiary support after a reasonable opportunity for further
- 20 investigation or discovery; or
- 21 4. Consists of denials or other factual contentions that are not warranted
- 22 by the evidence or, if specifically so identified, are not reasonably
- 23 based on a lack of information or belief.

24 (2) Any woman upon whom an abortion has been performed in violation of Section 2
25 of this Act, or the father of the unborn child who was the subject of such an
26 abortion, may commence a civil action against the person who intentionally
27 violated Section 2 of this Act for actual and punitive damages, court costs, and

1 reasonable attorney's fees.

2 (3) If a judgment is rendered in favor of the defendant in a civil action commenced
 3 pursuant to subsection (2) of this section and the court finds that the civil action
 4 constitutes frivolous conduct and that the defendant was adversely affected by the
 5 frivolous conduct, the court shall award reasonable attorney's fees to the
 6 defendant.

7 ➔SECTION 5. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
 8 TO READ AS FOLLOWS:

9 (1) The Kentucky pain-capable unborn child protection litigation fund is created as a
 10 trust fund. The trust fund shall consist of appropriations, donations, gifts, or
 11 grants made to the fund and shall be used by the state to pay for any costs or
 12 expenses incurred by the state in relation to actions surrounding the defense of
 13 Sections 1 to 6, 7, 8, 9, and 10 of this Act. Funds shall be distributed as directed
 14 by the Finance and Administration Cabinet.

15 (2) Notwithstanding KRS 45.229, any moneys remaining in the trust fund at the
 16 close of the fiscal year shall not lapse but shall be carried forward to the next
 17 fiscal year.

18 (3) Any interest earned on the trust fund shall be credited to the trust fund.

19 (4) Moneys in the trust fund are hereby appropriated for the purposes set forth in
 20 subsection (1) of this section.

21 ➔SECTION 6. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
 22 TO READ AS FOLLOWS:

23 Sections 1 to 6, 7, 8, 9, and 10 of this Act shall not be construed to repeal, by
 24 implication or otherwise, any law regulating or restricting abortion. An abortion that
 25 complies with Sections 1 to 6, 7, 8, 9, and 10 of this Act but violates any otherwise
 26 applicable provision of state law shall be deemed unlawful as provided in such
 27 provision. An abortion that complies with the provisions of state law regulating or

1 restricting abortion but violates the provisions of Sections 1 to 6, 7, 8, 9, and 10 of this
2 Act shall be deemed unlawful as provided in those sections. If some or all of the
3 provisions of Sections 1 to 6, 7, 8, 9, and 10 of this Act are temporarily or permanently
4 restrained or enjoined by judicial order, all other provisions of state law regulating or
5 restricting abortion shall be enforced as though such restrained or enjoined provisions
6 had not been adopted. But, whenever such temporary or permanent restraining order
7 or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions
8 shall have full force and effect.

9 ➔Section 7. KRS 311.595 is amended to read as follows:

10 If the power has not been transferred by statute to some other board, commission, or
11 agency of this state, the board may deny an application or reregistration for a license;
12 place a licensee on probation for a period not to exceed five (5) years; suspend a license
13 for a period not to exceed five (5) years; limit or restrict a license for an indefinite period;
14 or revoke any license heretofore or hereafter issued by the board, upon proof that the
15 licensee has:

- 16 (1) Knowingly made or presented, or caused to be made or presented, any false,
17 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
18 connection with an application for a license or permit;
- 19 (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion,
20 or conspiracy in connection with an examination for a license;
- 21 (3) Committed, procured, or aided in the procurement of an unlawful abortion,
22 including a partial-birth abortion;
- 23 (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or
24 without the Commonwealth of Kentucky, of committing an act which is, or would
25 be a felony under the laws of the Commonwealth of Kentucky, or of the United
26 States, or of any crime involving moral turpitude which is a misdemeanor under the
27 laws;

- 1 (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a
2 patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or
3 been found by the board to have had sexual contact as defined in KRS 510.010(7)
4 with a patient while the patient was under the care of the physician;
- 5 (6) Become addicted to a controlled substance;
- 6 (7) Become a chronic or persistent alcoholic;
- 7 (8) Been unable or is unable to practice medicine according to acceptable and
8 prevailing standards of care by reason of mental or physical illness or other
9 condition including but not limited to physical deterioration that adversely affects
10 cognitive, motor, or perceptive skills, or by reason of an extended absence from the
11 active practice of medicine;
- 12 (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely
13 to deceive, defraud, or harm the public or any member thereof;
- 14 (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false
15 statement in any document executed in connection with the practice of his
16 profession;
- 17 (11) Employed, as a practitioner of medicine or osteopathy in the practice of his
18 profession in this state, any person not duly licensed or otherwise aided, assisted, or
19 abetted the unlawful practice of medicine or osteopathy or any other healing art;
- 20 (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the
21 violation of, or conspired to violate any provision or term of any medical practice
22 act, including but not limited to the code of conduct promulgated by the board under
23 KRS 311.601 or any other valid regulation of the board;
- 24 (13) Violated any agreed order, letter of agreement, final order, or emergency order
25 issued by the board;
- 26 (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a
27 false or assumed name, or impersonated another practitioner of a like, similar, or

- 1 different name;
- 2 (15) Obtained a fee or other thing of value on the fraudulent representation that a
3 manifestly incurable condition could be cured;
- 4 (16) Willfully violated a confidential communication;
- 5 (17) Had his license to practice medicine or osteopathy in any other state, territory, or
6 foreign nation revoked, suspended, restricted, or limited or has been subjected to
7 other disciplinary action by the licensing authority thereof. This subsection shall not
8 require relitigation of the disciplinary action;
- 9 (18) Failed or refused, without legal justification, to practice medicine in a rural area of
10 this state in violation of a valid medical scholarship loan contract with the trustees
11 of the rural Kentucky medical scholarship fund;
- 12 (19) Given or received, directly or indirectly, from any person, firm, or corporation, any
13 fee, commission, rebate, or other form of compensation for sending, referring, or
14 otherwise inducing a person to communicate with a person licensed under KRS
15 311.530 to 311.620 in his professional capacity or for any professional services not
16 actually and personally rendered; provided, however, that nothing contained in this
17 subsection shall prohibit persons holding valid and current licenses under KRS
18 311.530 to 311.620 from practicing medicine in partnership or association or in a
19 professional service corporation authorized by KRS Chapter 274, as now or
20 hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees
21 and moneys received by them or by the partnership, corporation, or association in
22 accordance with the partnership agreement or the policies of the board of directors
23 of the corporation or association. Nothing contained in this subsection shall
24 abrogate the right of two (2) or more persons holding valid and current licenses
25 under KRS 311.530 to 311.620 to receive adequate compensation for concurrently
26 rendering professional care to a single patient and divide a fee, if the patient has full
27 knowledge of this division and if the division is made in proportion to the services

1 performed and responsibility assumed by each;

2 (20) Been removed, suspended, expelled, or disciplined by any professional medical
3 association or society when the action was based upon what the association or
4 society found to be unprofessional conduct, professional incompetence, malpractice,
5 or a violation of any provision of KRS Chapter 311. This subsection shall not
6 require relitigation of the disciplinary action;~~or~~

7 (21) Been disciplined by a licensed hospital or medical staff of the hospital, including
8 removal, suspension, limitation of hospital privileges, failing to renew privileges for
9 cause, resignation of privileges under pressure or investigation, or other disciplinary
10 action if the action was based upon what the hospital or medical staff found to be
11 unprofessional conduct, professional incompetence, malpractice, or a violation of
12 any provisions of KRS Chapter 311. This subsection shall not require relitigation of
13 the disciplinary action; or

14 **(22) Failed to comply with the requirements of Sections 2, 3, or 9 of this Act or failed**
15 **to submit to the Vital Statistics Branch in accordance with a court order a**
16 **complete report as described in Section 9 of this Act.**

17 ➔Section 8. KRS 311.990 is amended to read as follows:

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

19 (2) Any college or professor thereof violating the provisions of KRS 311.300 to
20 311.350 shall be civilly liable on his bond for a sum not less than one hundred
21 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,
22 which may be recovered by an action in the name of the Commonwealth.

23 (3) Any person who presents to the county clerk for the purpose of registration any
24 license which has been fraudulently obtained, or obtains any license under KRS
25 311.380 to 311.510 by false or fraudulent statement or representation, or practices
26 podiatry under a false or assumed name or falsely impersonates another practitioner
27 or former practitioner of a like or different name, or aids and abets any person in the

1 practice of podiatry within the state without conforming to the requirements of KRS
2 311.380 to 311.510, or otherwise violates or neglects to comply with any of the
3 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.
4 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to
5 311.510 shall be considered a separate offense.

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

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

10 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or
11 interfering with the board or any of its members, or of any officer, agent, inspector,
12 or investigator of the board or the Cabinet for Health and Family Services, in the
13 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class
14 A misdemeanor.

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

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

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

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

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

26 (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS
27 311.765 shall be guilty of a Class D felony. However, a physician shall

- 1 not be guilty of the criminal offense if the partial-birth abortion was
2 necessary to save the life of the mother whose life was endangered by a
3 physical disorder, illness, or injury.
- 4 2. A physician may seek a hearing before the State Board of Medical
5 Licensure on whether the physician's conduct was necessary to save the
6 life of the mother whose life was endangered by a physical disorder,
7 illness, or injury. The board's findings, decided by majority vote of a
8 quorum, shall be admissible at the trial of the physician. The board shall
9 promulgate administrative regulations to carry out the provisions of this
10 subparagraph.
- 11 3. Upon a motion of the physician, the court shall delay the beginning of
12 the trial for not more than thirty (30) days to permit the hearing, referred
13 to in subparagraph 2. of this paragraph, to occur.
- 14 (b) Any person other than a physician who performs a partial-birth abortion shall
15 not be prosecuted under this subsection but shall be prosecuted under
16 provisions of law which prohibit any person other than a physician from
17 performing any abortion.
- 18 (c) No penalty shall be assessed against the woman upon whom the partial-birth
19 abortion is performed or attempted to be performed.
- 20 (12) Any person who intentionally performs an abortion with knowledge that, or with
21 reckless disregard as to whether, the person upon whom the abortion is to be
22 performed is an unemancipated minor, and who intentionally or knowingly fails to
23 conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- 24 (13) Any person who negligently releases information or documents which are
25 confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- 26 (14) Any person who performs an abortion upon a married woman either with
27 knowledge or in reckless disregard of whether KRS 311.735 applies to her and who

1 intentionally, knowingly, or recklessly fails to conform to the requirements of KRS
2 311.735 shall be guilty of a Class D felony.

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

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

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

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

8 (19) **Except as provided in subsection (6) of Section 2 of this Act, any person who**
9 **intentionally violates Section 2 of this Act shall be guilty of a Class D felony.**

10 **(20) Any person who violates subsection (1) of Section 3 of this Act shall be guilty of a**
11 **Class B misdemeanor.**

12 **(21)** Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

13 ~~**(22)**~~~~(20)~~ Any professional medical association or society, licensed physician, or
14 hospital or hospital medical staff who shall have violated the provisions of KRS
15 311.606 shall be guilty of a Class B misdemeanor.

16 ~~**(23)**~~~~(21)~~ Any administrator, officer, or employee of a publicly owned hospital or
17 publicly owned health care facility who performs or permits the performance of
18 abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

19 ~~**(24)**~~~~(22)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

20 ~~**(25)**~~~~(23)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a
21 Class A misdemeanor.

22 ~~**(26)**~~~~(24)~~ (a) Any person who fails to test organs, skin, or other human tissue which is
23 to be transplanted, or violates the confidentiality provisions required by KRS
24 311.281, shall be guilty of a Class A misdemeanor;

25 (b) Any person who has human immunodeficiency virus infection, who knows he
26 is infected with human immunodeficiency virus, and who has been informed
27 that he may communicate the infection by donating organs, skin, or other

1 human tissue who donates organs, skin, or other human tissue shall be guilty
2 of a Class D felony.

3 ~~(27)~~~~(25)~~ Any person who sells or makes a charge for any transplantable organ shall be
4 guilty of a Class D felony.

5 ~~(28)~~~~(26)~~ Any person who offers remuneration for any transplantable organ for use in
6 transplantation into himself shall be fined not less than five thousand dollars
7 (\$5,000) nor more than fifty thousand dollars (\$50,000).

8 ~~(29)~~~~(27)~~ Any person brokering the sale or transfer of any transplantable organ shall be
9 guilty of a Class C felony.

10 ~~(30)~~~~(28)~~ Any person charging a fee associated with the transplantation of a
11 transplantable organ in excess of the direct and indirect costs of procuring,
12 distributing, or transplanting the transplantable organ shall be fined not less than
13 fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars
14 (\$500,000).

15 ~~(31)~~~~(29)~~ Any hospital performing transplantable organ transplants which knowingly
16 fails to report the possible sale, purchase, or brokering of a transplantable organ
17 shall be fined not less than ten thousand dollars (\$10,000) or more than fifty
18 thousand dollars (\$50,000).

19 ➔Section 9. KRS 213.101 is amended to read as follows:

20 (1) Each induced termination of pregnancy which occurs in the Commonwealth,
21 regardless of the length of gestation, shall be reported to the Vital Statistics Branch
22 by the person in charge of the institution within fifteen (15) days after the end of the
23 month in which the termination occurred. If the induced termination of pregnancy
24 was performed outside an institution, the attending physician shall prepare and file
25 the report within fifteen (15) days after the end of the month in which the
26 termination occurred. **The report shall include all the information the physician is**
27 **required to certify in writing or determine under Sections 2 and 3 of this Act, but**

1 ~~*shall not include*~~ [The report shall collect no] information which will identify the
2 physician, woman, or man involved.

3 **(2)** The name of the person completing the report and the reporting institution shall not
4 be subject to disclosure under KRS 61.870 to 61.884.

5 **(3)** ***By September 30 of each year, the Vital Statistics Branch shall issue a public***
6 ***report that provides statistics for the previous calendar year compiled from all of***
7 ***the reports covering that calendar year submitted to the cabinet in accordance***
8 ***with this section for each of the items listed in subsection (1) of this section. Each***
9 ***annual report shall also provide statistics for all previous calendar years in which***
10 ***this section was in effect, adjusted to reflect any additional information from late***
11 ***or corrected reports. The Vital Statistics Branch shall ensure that none of the***
12 ***information included in the report could reasonably lead to the identification of***
13 ***any pregnant woman upon whom an abortion was performed or attempted.***

14 **(4)** ***(a) Any person or institution who fails to submit a report by the end of thirty***
15 ***(30) days following the due date set in subsection (1) of this section shall be***
16 ***subject to a late fee of five hundred dollars (\$500) for each additional thirty***
17 ***(30) day period or portion of a thirty (30) day period the report is overdue.***

18 ***(b) Any person or institution who fails to submit a report, or who has submitted***
19 ***only an incomplete report, more than one (1) year following the due date set***
20 ***in subsection (1) of this section, may in a civil action brought by the Vital***
21 ***Statistics Bureau be directed by a court of competent jurisdiction to submit***
22 ***a complete report within a time period stated by court order or be subject to***
23 ***contempt of court.***

24 ***(c) Failure by any physician to comply with the requirements of this section,***
25 ***other than filing a late report, or to submit a complete report in accordance***
26 ***with a court order shall subject the physician to Section 7 of this Act.***

27 **(5)** ***Intentional falsification of any report required under this section is a Class A***

1 *misdemeanor.*

2 *(6) Within ninety (90) days of the effective date of this Act, the Vital Statistics Branch*
3 *shall promulgate administrative regulations in accordance with KRS Chapter*
4 *13A to assist in compliance with this section.*

5 ➔Section 10. KRS 413.140 is amended to read as follows:

- 6 (1) The following actions shall be commenced within one (1) year after the cause of
7 action accrued:
- 8 (a) An action for an injury to the person of the plaintiff, or of her husband, his
9 wife, child, ward, apprentice, or servant;
 - 10 (b) An action for injuries to persons, cattle, or other livestock by railroads or other
11 corporations, with the exception of hospitals licensed pursuant to KRS
12 Chapter 216;
 - 13 (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal
14 conversation, or breach of promise of marriage;
 - 15 (d) An action for libel or slander;
 - 16 (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant
17 to KRS Chapter 216, for negligence or malpractice;
 - 18 (f) A civil action, arising out of any act or omission in rendering, or failing to
19 render, professional services for others, whether brought in tort or contract,
20 against a real estate appraiser holding a certificate or license issued under
21 KRS Chapter 324A;
 - 22 (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;
 - 23 (h) An action for the recovery of usury paid for the loan or forbearance of money
24 or other thing, against the loaner or forbearer or assignee of either;
 - 25 (i) An action for the recovery of stolen property, by the owner thereof against any
26 person having the same in his possession;
 - 27 (j) An action for the recovery of damages or the value of stolen property, against

1 the thief or any accessory;

2 (k) An action arising out of a detention facility disciplinary proceeding, whether
3 based upon state or federal law;~~and~~

4 (l) An action for damages arising out of a deficiency, defect, omission, error, or
5 miscalculation in any survey or plat, whether brought in tort or contract,
6 against a licensed professional land surveyor holding a license under KRS
7 Chapter 322; and

8 (m) An action for violating Section 2 of this Act.

9 (2) In respect to the action referred to in paragraph (e) of subsection (1) of this section,
10 the cause of action shall be deemed to accrue at the time the injury is first
11 discovered or in the exercise of reasonable care should have been discovered;
12 provided that such action shall be commenced within five (5) years from the date on
13 which the alleged negligent act or omission is said to have occurred.

14 (3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this
15 section, the cause of action shall be deemed to accrue within one (1) year from the
16 date of the occurrence or from the date when the cause of action was, or reasonably
17 should have been, discovered by the party injured.

18 (4) In respect to the action referred to in paragraph (h) of subsection (1) of this section,
19 the cause of action shall be deemed to accrue at the time of payment. This limitation
20 shall apply to all payments made on all demands, whether evidenced by writing or
21 existing only in parol.

22 (5) In respect to the action referred to in paragraph (i) of subsection (1) of this section,
23 the cause of action shall be deemed to accrue at the time the property is found by its
24 owner.

25 (6) In respect to the action referred to in paragraph (j) of subsection (1) of this section,
26 the cause of action shall be deemed to accrue at the time of discovery of the
27 liability.

1 (7) In respect to the action referred to in paragraph (k) of subsection (1) of this section,
2 the cause of action shall be deemed to accrue on the date an appeal of the
3 disciplinary proceeding is decided by the institutional warden.

4 **(8) In respect to the action referred to in paragraph (m) of subsection (1) of this**
5 **section, the cause of action shall be deemed to accrue after the performance or**
6 **inducement or attempt to perform or induce the abortion.**

7 ➔Section 11. Whereas it is the purpose of the state to assert a compelling state
8 interest in protecting the lives of unborn children from the stage at which substantial
9 medical evidence indicates that they are capable of feeling pain, an emergency is declared
10 to exist, and this Act takes effect upon its passage and approval by the Governor or upon
11 its otherwise becoming law.