

1 AN ACT relating to reporting prescriptions to terminate a pregnancy.

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

3 ➔Section 1. KRS 213.101 is amended to read as follows:

4 (1) Each induced termination of pregnancy which occurs in the Commonwealth,  
5 regardless of the length of gestation, shall be reported to the Vital Statistics Branch  
6 by the person in charge of the institution within fifteen (15) days after the end of the  
7 month in which the termination occurred. If the induced termination of pregnancy  
8 was performed outside an institution, the attending physician shall prepare and file  
9 the report within fifteen (15) days after the end of the month in which the  
10 termination occurred. The report shall include all the information the physician is  
11 required to certify in writing or determine under KRS 311.782 and 311.783, but  
12 shall not include information which will identify the physician, woman, or man  
13 involved.

14 (2) ***Each prescription written by a physician for mifeprex, misoprostol, or any other***  
15 ***drug or combination of drugs that are intended to end a pregnancy shall be***  
16 ***reported to the Vital Statistics Branch by the physician within fifteen (15) days***  
17 ***after the end of the month in which the prescription was written as required by***  
18 ***Section 2 of this Act, but shall not include information which will identify the***  
19 ***woman involved or anyone who may be picking up the prescription on behalf of***  
20 ***the woman.***

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

23 (4)~~(3)~~ By September 30 of each year, the Vital Statistics Branch shall issue a public  
24 report that provides statistics for the previous calendar year compiled from all of the  
25 reports covering that calendar year submitted to the cabinet in accordance with this  
26 section for each of the items listed in **subsections (1) and (2)**~~subsection (1)~~ of this  
27 section. Each annual report shall also provide statistics for all previous calendar

1 years in which this section was in effect, adjusted to reflect any additional  
 2 information from late or corrected reports. The Vital Statistics Branch shall ensure  
 3 that none of the information included in the report could reasonably lead to the  
 4 identification of any pregnant woman upon whom an abortion was performed or  
 5 attempted.

6 ~~(5)~~~~(4)~~ (a) Any person or institution who fails to submit a report by the end of thirty  
 7 (30) days following the due date set in **subsections (1) and (2)**~~subsection (1)~~  
 8 of this section shall be subject to a late fee of five hundred dollars (\$500) for  
 9 each additional thirty (30) day period or portion of a thirty (30) day period the  
 10 report is overdue.

11 (b) Any person or institution who fails to submit a report, or who has submitted  
 12 only an incomplete report, more than one (1) year following the due date set in  
 13 **subsections (1) and (2)**~~subsection (1)~~ of this section, may in a civil action  
 14 brought by the Vital Statistics Branch be directed by a court of competent  
 15 jurisdiction to submit a complete report within a time period stated by court  
 16 order or be subject to contempt of court.

17 (c) Failure by any physician to comply with the requirements of this section, other  
 18 than filing a late report, or to submit a complete report in accordance with a  
 19 court order shall subject the physician to KRS 311.595.

20 ~~(6)~~~~(5)~~ Intentional falsification of any report required under this section is a Class A  
 21 misdemeanor.

22 ~~(7)~~~~(6)~~ ~~[Within ninety (90) days of January 9, 2017, ]~~The Vital Statistics Branch shall  
 23 promulgate administrative regulations in accordance with KRS Chapter 13A to assist  
 24 in compliance with this section.

25 ➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED  
 26 TO READ AS FOLLOWS:

27 **A physician who prescribes mifeprex, misoprostol, or any other drug or combination of**

1 drugs that are intended to end a pregnancy shall report the prescription on a report  
2 form provided by the cabinet within fifteen (15) days after the end of the month in  
3 which the prescription was written.

4 →Section 3. KRS 311.723 is amended to read as follows:

5 (1) No abortion shall be performed except by a physician after either:

6 (a) He determines that, in his best clinical judgment, the abortion is necessary; or

7 (b) He receives what he reasonably believes to be a written statement signed by  
8 another physician, hereinafter called the "referring physician," certifying that in  
9 the referring physician's best clinical judgment the abortion is necessary, and, in  
10 addition, he receives a copy of the report form required by KRS  
11 213.101[213.055].

12 (2) No abortion shall be performed except in compliance with regulations which the  
13 cabinet shall issue to assure that:

14 (a) Before the abortion is performed, the pregnant woman shall have a private  
15 medical consultation either with the physician who is to perform the abortion  
16 or with the referring physician in a place, at a time and of a duration reasonably  
17 sufficient to enable the physician to determine whether, based upon his best  
18 clinical judgment, the abortion is necessary;

19 (b) The physician who is to perform the abortion or the referring physician will  
20 describe the basis for his best clinical judgment that the abortion is necessary  
21 on a form prescribed by the cabinet as required by KRS 213.101[213.055]; and

22 (c) Paragraph (a) of this subsection shall not apply when, in the medical judgment  
23 of the attending physician based on the particular facts of the case before him,  
24 there exists a medical emergency. In such a case, the physician shall describe  
25 the basis of his medical judgment that an emergency exists on a form  
26 prescribed by the cabinet as required by 213.101[KRS 213.055].

27 (3) Notwithstanding any statute to the contrary, nothing in this chapter shall be

1 construed as prohibiting a physician from prescribing or a woman from using birth  
2 control methods or devices, including, but not limited to, intrauterine devices, oral  
3 contraceptives, or any other birth control method or device.

4 ➔Section 4. KRS 311.735 is amended to read as follows:

- 5 (1) Prior to performing an abortion, the physician who is to perform the abortion or his  
6 agent shall notify, if reasonably possible, the spouse of the woman upon whom the  
7 abortion is to be performed. If it is not reasonably possible to notify the spouse prior  
8 to the abortion, the physician or his agent shall do so, if reasonably possible, within  
9 thirty (30) days of the abortion.
- 10 (2) (a) The requirements of this section shall not apply if, before the abortion is  
11 performed, either party to a marriage has filed a petition for dissolution of  
12 marriage which has been served on the respondent;
- 13 (b) The requirements of this section shall not apply when, in the medical judgment  
14 of the attending physician based on the particular facts of the case before him,  
15 there exists a medical emergency. In such a case, the physician shall describe  
16 the basis of his medical judgment that such an emergency exists on a form  
17 prescribed by the cabinet as required by KRS 213.101~~[213.055]~~, and the  
18 physician or his agent shall notify, if reasonably possible, the spouse of the  
19 woman upon whom the abortion was performed, within thirty (30) days of the  
20 abortion.
- 21 (3) Failure to notify a spouse as required by this section is prima facie evidence of  
22 interference with family relations in appropriate civil actions. The law of this  
23 Commonwealth shall not be construed to preclude the award of punitive damages or  
24 damages for emotional distress, even if unaccompanied by physical complications in  
25 any civil action brought pursuant to violations of this section. Nothing in this section  
26 shall be construed to limit the common law rights of a husband.