

1 AN ACT relating to the dignified treatment of fetal remains.

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

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

5 *(1) For the purposes of this section, "fetal remains" means the biological remains of*  
6 *a human child resulting from the termination of a pregnancy by a surgical or*  
7 *chemical abortion prior to birth.*

8 *(2) (a) Within twenty-four (24) hours before a surgical or chemical abortion, the*  
9 *health facility or abortion facility shall disclose to the parent or parents of*  
10 *the fetus, both orally and in writing, the parents' right to determine if they*  
11 *will take responsibility for the final disposition of the fetal remains or*  
12 *relinquish the responsibility for final disposition to the health facility or*  
13 *abortion facility.*

14 *(b) If the procedure is a chemically induced abortion, the mother shall be*  
15 *informed that she will expel a fetus after leaving the health facility or*  
16 *abortion facility and she may choose to return the fetal remains to the*  
17 *health facility or abortion facility for final disposition.*

18 *(c) After receiving the information required by paragraphs (a) and (b) of this*  
19 *subsection, the parent or parents of the fetus shall inform the health facility*  
20 *or abortion facility of their choice for the disposition of the fetal remains by*  
21 *electing to either:*

22 *1. Relinquish the guardianship of the fetal remains and the*  
23 *responsibility for final disposition of those remains to the*  
24 *guardianship of the health facility or abortion facility which shall*  
25 *dispose of those remains as they would any other human remains; or*

26 *2. Retain the guardianship for the fetal remains and designate that fetal*  
27 *remains shall be released to the parent or parents for disposition;*

1           *The health facility or abortion facility shall document the parents' decision*  
 2           *in the medical record.*

3   *(3) The cabinet shall design and promulgate forms through administrative*  
 4   *regulations that shall document:*

5           *(a) The age of the parent or parents of the fetal remains;*

6           *(b) In the event that the parents are under eighteen (18) years of age, or have*  
 7           *not been emancipated by court order, a consent by their parent or guardian;*

8           *(c) A designation of how the fetal remains shall be disposed of and who shall*  
 9           *be responsible for the final disposition; and*

10          *(d) Any other information required by the cabinet.*

11   *(4) A person shall not:*

12          *(a) Offer money or anything of value for an aborted fetus or fetal remains;*

13          *(b) Accept money or anything of value for an aborted fetus or fetal remains;*

14          *(c) Transport, or arrange for the transportation of fetal remains for any*  
 15          *purpose other than:*

16           *1. Final disposition by a crematory licensed under KRS Chapter 367;*

17           *2. Interment by a funeral establishment licensed under KRS Chapter*  
 18           *316; or*

19           *3. Interment by the parent or parents in conformance privately in*  
 20           *conformance with KRS 381.697 and administrative regulations*  
 21           *promulgated by the Cabinet for Health and Family Services.*

22          ➔Section 2. KRS 367.97501 is amended to read as follows:

23          As used in KRS 367.97501 to 367.97537, unless the context requires otherwise:

24          (1) "Authorizing agent" means the person legally entitled to order the cremation of the  
 25          human remains.

26          (2) "Casket" means a rigid container which is designed for the encasement of human  
 27          remains constructed of wood, metal, or other material.

- 1 (3) "Closed container" means a sealed container or urn in which cremated remains are  
2 placed and enclosed in a manner that prevents leakage or spillage of cremated  
3 remains or the entrance of foreign material.
- 4 (4) "Cremated remains" means the fragments remaining after the cremation process has  
5 been completed.
- 6 (5) "Cremation" means the heating process that reduces human remains to bone  
7 fragments through combustion and evaporation.
- 8 (6) "Cremation authorization form" means a form promulgated by administrative  
9 regulation of the Attorney General that expresses consent to the decedent's  
10 cremation. The form shall include information concerning the parties' rights and  
11 responsibilities.
- 12 (7) "Cremation chamber" means an enclosed space designed and manufactured for the  
13 purpose of cremating human remains.
- 14 (8) "Cremation container" means a container in which human remains may be delivered  
15 to a crematory for cremation that is:
- 16 (a) Rigid enough to support the weight of the corpse, closed, and leakproof;  
17 (b) Composed of a combustible material or other material approved by the  
18 crematory authority; and  
19 (c) A proper and dignified covering for the human remains.
- 20 (9) "Crematory authority" means the legal entity which is licensed by the Attorney  
21 General to operate a crematory and conduct cremations. Crematory authority does  
22 not include state university health science centers.
- 23 (10) "Crematory" means a fixed building or structure that contains one (1) or more  
24 cremation chambers for the reduction of bodies of deceased persons to cremated  
25 remains. "Crematory" includes crematorium.
- 26 (11) "Crematory operator" means the person in charge of a licensed crematory authority.
- 27 (12) "Declaration" has the same meaning as in KRS 367.93101.

- 1 (13) "Holding facility" means an area designated for the retention of human remains  
2 prior to cremation.
- 3 (14) "Human remains" means the body of a deceased person or part of a body or limb  
4 that has been removed from a living person, in any state of decomposition, prior to  
5 cremation.
- 6 (15) "Pathological waste" means human tissues, organs, and blood or body fluids, in  
7 liquid or semiliquid form that are removed from a person for medical purposes.  
8 "Pathological waste" does not include amputations ***or fetal remains as defined by***  
9 ***Section 1 of this Act.***
- 10 (16) "Processed remains" means the end result of pulverization, by which the residual  
11 from the cremation process is reduced and cleaned leaving only fragments reduced  
12 to unidentified dimensions.
- 13 (17) "Retort operator" means a person operating a cremation chamber.
- 14 (18) "Scattering area or garden" means an area which may be designated by a cemetery  
15 and located on a dedicated cemetery property where cremated remains which have  
16 been removed from their container can be mixed with or placed on top of the soil or  
17 ground cover.
- 18 (19) "Temporary container" means a receptacle for cremated remains, usually made of  
19 plastic, cardboard, ceramics, plastic film, wood, or metal, designed to prevent the  
20 leakage of processed remains or the entrance of foreign materials which will hold  
21 the cremated remains until an urn or other permanent container is acquired.