

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
4 TO READ AS FOLLOWS:

5 *(1) Within twenty-four (24) hours after a spontaneous miscarriage or an abortion,*
6 *the hospital or abortion facility shall:*

7 *(a) Disclose to the parent or parents of the fetus, both orally and in writing, the*
8 *parents' right to determine the final disposition of the fetal remains; and*

9 *(b) Provide the parent or parents of the fetus with written information*
10 *concerning the available options for disposition of the fetal remains.*

11 *(2) The parent or parents of a miscarried or aborted fetus shall inform the hospital*
12 *or abortion facility of the parents' decision for the final disposition of the fetus*
13 *after receiving the information required by subsection (1) of this section and the*
14 *hospital or abortion facility shall document the parents' decision in the medical*
15 *record.*

16 *(3) If the parent or parents choose a method of disposition other than the method of*
17 *final disposition that is usual and customary for the hospital or abortion facility,*
18 *the parent or parents shall be responsible for the costs related to the final*
19 *disposition of the fetus.*

20 *(4) Within ten (10) business days following a miscarriage or abortion, the hospital,*
21 *abortion facility, parent, or parents shall provide for the final disposition of the*
22 *fetal remains, through either cremation or interment in a licensed facility, or*
23 *ensure that the fetal remains are preserved until final disposition is arranged.*

24 *(5) The cabinet shall design and promulgate forms through administrative*
25 *regulations that shall document:*

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

27 *(b) In the event that the parents are under eighteen (18) years of age, or have*

- 1 not been emancipated by court order, a consent by their parent;
- 2 (c) A designation of how the fetal remains shall be disposed of;
- 3 (d) An acknowledgement that it is a Class D felony to flush fetal remains down
 4 the toilet, throw away, cremate or bury fetal remains in any place other than
 5 a licensed facility; and
- 6 (e) Any other information required by the cabinet.
- 7 (6) A person shall not:
- 8 (a) Offer money or anything of value for an aborted fetus or fetal remains;
- 9 (b) Accept money or anything of value for an aborted fetus or fetal remains; or
- 10 (c) Accept any reimbursement of any costs associated with the preparation,
 11 preservation, transfer, shipping, or handling of an aborted fetus or fetal
 12 remains.
- 13 (7) (a) Violation of subsection (4) of this section is a Class D felony; and
- 14 (b) Violation of subsection (6) of this section is a Class A misdemeanor.

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

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

- 17 (1) "Authorizing agent" means the person legally entitled to order the cremation of the
 18 human remains.
- 19 (2) "Casket" means a rigid container which is designed for the encasement of human
 20 remains constructed of wood, metal, or other material.
- 21 (3) "Closed container" means a sealed container or urn in which cremated remains are
 22 placed and enclosed in a manner that prevents leakage or spillage of cremated
 23 remains or the entrance of foreign material.
- 24 (4) "Cremated remains" means the fragments remaining after the cremation process has
 25 been completed.
- 26 (5) "Cremation" means the heating process that reduces human remains to bone
 27 fragments through combustion and evaporation.

- 1 (6) "Cremation authorization form" means a form promulgated by administrative
2 regulation of the Attorney General that expresses consent to the decedent's
3 cremation. The form shall include information concerning the parties' rights and
4 responsibilities.
- 5 (7) "Cremation chamber" means an enclosed space designed and manufactured for the
6 purpose of cremating human remains.
- 7 (8) "Cremation container" means a container in which human remains may be delivered
8 to a crematory for cremation that is:
- 9 (a) Rigid enough to support the weight of the corpse, closed, and leakproof;
10 (b) Composed of a combustible material or other material approved by the
11 crematory authority; and
12 (c) A proper and dignified covering for the human remains.
- 13 (9) "Crematory authority" means the legal entity which is licensed by the Attorney
14 General to operate a crematory and conduct cremations. Crematory authority does
15 not include state university health science centers.
- 16 (10) "Crematory" means a fixed building or structure that contains one (1) or more
17 cremation chambers for the reduction of bodies of deceased persons to cremated
18 remains. "Crematory" includes crematorium.
- 19 (11) "Crematory operator" means the person in charge of a licensed crematory authority.
- 20 (12) "Declaration" has the same meaning as in KRS 367.93101.
- 21 (13) "Holding facility" means an area designated for the retention of human remains
22 prior to cremation.
- 23 (14) "Human remains" means the body of a deceased person or part of a body or limb
24 that has been removed from a living person, in any state of decomposition, prior to
25 cremation.
- 26 (15) "Pathological waste" means human tissues, organs, and blood or body fluids, in
27 liquid or semiliquid form that are removed from a person for medical purposes.

- 1 "Pathological waste" does not include amputations *or fetal remains*.
- 2 (16) "Processed remains" means the end result of pulverization, by which the residual
3 from the cremation process is reduced and cleaned leaving only fragments reduced
4 to unidentified dimensions.
- 5 (17) "Retort operator" means a person operating a cremation chamber.
- 6 (18) "Scattering area or garden" means an area which may be designated by a cemetery
7 and located on a dedicated cemetery property where cremated remains which have
8 been removed from their container can be mixed with or placed on top of the soil or
9 ground cover.
- 10 (19) "Temporary container" means a receptacle for cremated remains, usually made of
11 plastic, cardboard, ceramics, plastic film, wood, or metal, designed to prevent the
12 leakage of processed remains or the entrance of foreign materials which will hold
13 the cremated remains until an urn or other permanent container is acquired.