AN ACT relating to individual-directed care at the end of life.

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

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

As used in Sections 1 to 16 of this Act:

(1) "Adult" means a person who is eighteen (18) years of age or older;

(2) "Attending health care provider" means the health care provider licensed in Kentucky who has primary responsibility for the treatment and care of the individual's terminal condition;

(3) "Coercion or undue influence" means the willful attempt, whether by deception, intimidation, or any other means to:

(a) Cause an individual to request, obtain, or self-administer medication pursuant to this Act with intent to cause the death of the individual; or

(b) Prevent a qualified individual from obtaining or self-administering medication pursuant to Sections 1 to 16 of this Act;

(4) "Consulting provider" means a provider licensed in Kentucky who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the individual's disease;

(5) "Health care facility" means a hospital, nursing facility, nursing home, or hospice, public or private, whether organized for profit or not, that is licensed pursuant to KRS Chapter 216B;

(6) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by the laws of Kentucky to diagnose and treat medical conditions, and prescribe and dispense medication, including controlled substances. Health care provider includes:

a. A doctor of medicine licensed by the Kentucky Board of Medical Licensure pursuant to KRS Chapter 311;
b. A doctor of osteopathy licensed by the Kentucky Board of Medical Licensure pursuant to KRS Chapter 311;

c. An advanced practice registered nurse licensed by the Kentucky Board of Nursing and certified by a national nurse certification organization acceptable to the board to practice as a clinical nurse specialist or nurse practitioner pursuant to KRS Chapter 314; or

d. A physician assistant licensed by the Kentucky Board of Medical Licensure pursuant to KRS 311.840 to 311.862;

(7) "Informed decision" means a decision by a qualified individual to request and obtain a prescription for medication that the qualified individual may self-administer to bring about a peaceful death after being fully informed by the attending health care provider and consulting provider of:

(a) The qualified individual's medical diagnosis;

(b) The qualified individual's prognosis;

(c) The potential risks associated with taking the medication to be prescribed;

(d) The probable result of taking the medication to be prescribed;

(e) The feasible end-of-life care and treatment options for the individual's terminal disease, including but not limited to comfort care, palliative care, hospice care, and pain control, and the risks and benefits of each; and

(f) The qualified individual's right to withdraw a request, or consent for any other treatment, at any time;

(8) "Medical aid in dying" means the practice of evaluating a request, determining qualification, and providing a prescription to a qualified individual;

(9) "Medically confirmed" means the attending health care provider's medical opinion that the individual is eligible to receive medication has been confirmed by the consulting provider after performing a medical evaluation;

(10) "Mentally capable" means that in the opinion of the attending health care or
consulting provider, or qualified mental health professional, if an opinion is requested, that the individual requesting medication has the ability to make and communicate an informed decision;

(11) "Prognosis of six months or less" means the terminal disease will, within reasonable medical judgment, result in death within six (6) months;

(12) "Qualified individual" means a capable adult who is a resident of Kentucky and who has satisfied the requirements of Sections 1 to 16 of this Act in order to obtain a prescription for medication to bring about a peaceful death. No person will be considered a qualified individual solely because of advanced age or disability;

(13) "Qualified mental health professional" has the same meaning as set out in KRS 202A.011;

(14) "Self-administer" means a qualified individual performs an affirmative, conscious, voluntary act to ingest medication prescribed to bring about the individual’s peaceful death. Self-administration does not include administration by intravenous or other parenteral injection or infusion; and

(15) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six (6) months.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 16 this Act will be construed to limit the information an attending or consulting provider shall provide to a qualified individual in order to comply with all Kentucky informed consent laws and the medical standards of care.

(2) If an attending or consulting health care provider is unable or unwilling to provide information or services that the qualified individual has requested, upon
request of the qualified individual the provider shall timely transfer both care of
the qualified individual and any related medical records to a new attending or
consulting provider, so that the qualified individual can make a voluntary,
affirmative decision regarding end-of-life care.

(3) Failure to provide information about medical aid in dying to a qualified
individual who requests it, or failure to refer the qualified individual to another
attending or consulting provider who can provide the information upon request,
shall be considered a failure to obtain informed consent for subsequent medical
treatments.

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

(1) Care that complies with the requirements of Sections 1 to 16 of this Act meets the
medical standard of care.

(2) Nothing in Sections 1 to 16 of this Act exempts an attending or consulting
provider or other medical personnel from meeting medical standards of care for
the treatment of qualified individuals with a terminal disease.

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

(1) A mentally capable individual with a terminal disease may request a prescription
for medication under Sections 1 to 16 of this Act. An individual shall have made
an oral request and a written request, and reiterated the oral request to the
individual’s attending provider no less than fifteen (15) days after making the
initial oral request.

(2) The attending and consulting health care providers of an individual shall meet
all the requirements of Section 6 of this Act.

(3) Notwithstanding subsection (1) of this section, if the individual’s attending health
care provider has medically determined that the individual will, within reasonable
medical judgment, die within fifteen (15) days after making the initial oral request under this section, the individual may qualify by reiterating the oral request to the attending health care provider at any time after making the initial oral request.

(4) At the time the individual makes the second oral request, the attending provider shall offer the individual an opportunity to rescind the request.

(5) Oral and written requests for medical aid in dying may be made only by the requesting individual and shall not be made by the individual’s surrogate decision-maker, health care proxy, attorney in fact for health care, nor via advance health care directive.

(6) If the individual decides to transfer care to another health care provider, the former health care provider shall transfer all relevant medical records including written documentation of the dates of the individual’s requests concerning medical aid in dying.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A valid request for medication under Sections 1 to 16 of this Act shall be in substantially the same form as in this section, signed and dated by the qualified individual, and witnessed by at least one individual who, in the presence of the qualified individual, attests that to the best of the witness’ knowledge and belief the qualified individual is capable, acting voluntarily, and is not being coerced nor unduly influenced to sign the request.

(2) The witness required under this section shall be a person who is not:

(a) A relative of the individual by blood, marriage or adoption;

(b) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified individual upon death, under any will or by operation of law; or
(c) An owner, operator, or employee of a health care facility where the qualified individual is receiving medical treatment or is a resident.

(3) The qualified individual’s attending health care provider at the time the request is signed shall not be a witness.

(4) The qualified individual’s interpreter shall not be a witness.

(5) A valid request for medication as authorized by Sections 1 to 16 of this Act shall be in substantially the following form:

"REQUEST FOR MEDICATION TO END MY LIFE IN PEACEFUL MANNER

I, ......................, am an adult of sound mind. I have been diagnosed with ........................., and given six months or less to live.

I have been fully informed of the feasible alternatives, concurrent or additional treatment opportunities for my terminal disease, including but not limited to comfort care, palliative care, hospice care, or pain control, and the potential risks and benefits of each. I have been offered or received resources or referrals to pursue these alternatives, concurrent, or additional treatment opportunities for my terminal disease.

I have been fully informed of the nature of medication to be prescribed, the risks and benefits including that the likely outcome of self-administering the medication is death.

I understand that I can rescind this request at any time and that I am under no obligation to fill the prescription once written nor to self-administer the medication if I obtain it.

I request that my attending health care provider furnish a prescription for medication that will end my life in a peaceful manner if I choose to self-administer it, and I authorize my attending provider to contact a pharmacist to dispense the prescription at a time of my choosing.

I make this request voluntarily, free from coercion or undue influence.

Signed:..................................................

Dated:................................................
SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The attending health care provider shall:

(a) Determine whether an individual has a terminal disease with a prognosis of six (6) months or less and is mentally capable;

(b) Request that the individual demonstrate Kentucky residency;

(c) Confirm that the individual’s request does not arise from coercion or undue influence by asking the individual about coercion and influence, outside the presence of other persons, except for an interpreter as necessary;

(d) Inform the individual of:

1. The diagnosis;

2. The prognosis;

3. The potential risks, benefits, and probable result of self-administering the prescribed medication to bring about a peaceful death;

4. The potential benefits and risks of feasible alternatives, including but not limited to concurrent or additional treatment options for the individual’s terminal disease, palliative care, comfort care, hospice care, and pain control; and

5. The individual’s right to rescind the request for medication at any time and in any manner;

(e) Inform the individual that there is no obligation to fill the prescription nor an obligation to self-administer the medication if it is obtained;

(f) Provide the individual with a referral for comfort care, palliative care, hospice care, pain control, or other end-of-life treatment options as requested or as clinically indicated;
(g) Refer the individual to a consulting health care provider for medical confirmation that the individual requesting medication:

1. Has a terminal disease with a prognosis of six (6) months or less to live; and

2. Is mentally capable;

(h) Include the consulting health care provider's written determination in the individual’s medical record;

(i) Refer the individual to a licensed qualified mental health professional if the attending health care provider observes signs that the individual may not be capable of making an informed decision;

(j) Include the qualified mental health professional’s written determination in the individual’s medical record, if a determination was requested;

(k) Inform the individual of the benefits of notifying the next of kin of the individual’s decision to request medication;

(l) Fulfill the medical record documentation requirements;

(m) Ensure that all steps are carried out in accordance with Sections 1 to 16 of this Act before providing a prescription to a qualified individual for medication, including:

1. Confirming that the individual has made an informed decision to obtain a prescription for medication;

2. Offering the individual an opportunity to rescind the request for medication; and

3. Educating the individual on:

   a. The recommended procedure for self-administering the medication to be prescribed;

   b. The safe-keeping and proper disposal of unused medication in accordance with state and federal law;
c. The importance of having another person present when the
   individual self-administers the medication to be prescribed; and

d. Not taking the medical aid-in-dying medication in a public
   place;

(n) Deliver the prescription personally, by mail, or through an authorized
    electronic transmission to a licensed pharmacist who will dispense the
    medication, including any ancillary medications, to the attending provider,
    to the qualified individual, or to an individual expressly designated by the
    qualified individual in person or with a signature required on delivery, by
    mail service or by messenger service;

(o) If authorized by the Drug Enforcement Agency, dispense the prescribed
    medication, including any ancillary medications, to the qualified individual
    or an individual designated in person by the qualified individual; and

(p) Document in the qualified individual’s medical record the individual’s
    diagnosis and prognosis, determination of mental capability, the date of the
    oral requests, a copy of the written request, a notation that the requirements
    under this section have been completed, and identification of the medication
    and ancillary medications prescribed to the qualified individual;

(2) A consulting health care provider shall:

(a) Evaluate the qualified individual and the individual’s relevant medical
    records; and

(b) Confirm, in writing, to the attending health care provider that the qualified
    individual:

1. Has a terminal disease with prognosis of six (6) months or less to live;

2. Is mentally capable or provide documentation that the consulting
    health care provider has referred the individual for further evaluation
    in accordance with Section 7 of this Act; and
3. Is acting voluntarily, free from coercion or undue influence.

(3) Notwithstanding any other provision of law, the attending provider may sign the individual's death certificate.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) If either the attending health care provider or the consulting health care provider is unable to confirm that the individual is capable of making an informed decision, the attending health care provider or consulting health care provider shall refer the individual to a qualified mental health professional for determination regarding mental capability.

(2) The qualified mental health professional who evaluates the individual under this section shall submit to the requesting attending or consulting health care provider a written determination of whether the individual is mentally capable.

(3) If the qualified mental health professional determines that the individual is not mentally capable, the individual shall not be deemed a qualified individual and the attending health care provider shall not prescribe medication to the individual.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A person who has custody or control of medication prescribed pursuant Sections 1 to 16 of this Act after the qualified individual’s death shall dispose of the medication by lawful means in accordance with state or federal guidelines.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A health care provider shall provide sufficient information to a qualified individual with a terminal disease regarding available options, the alternatives, and the foreseeable risks and benefits of each so that the individual is able to
make informed decisions regarding their end-of-life care.

(2) A health care provider may choose whether or not to practice medical aid in dying.

(3) If a health care provider is unable or unwilling to fulfill a qualified individual’s request for medication, the health care provider shall:

   (a) Document the date of the qualified individual’s request in the medical record; and

   (b) Upon request, transfer the qualified individual’s medical records to a new health care provider consistent with federal and state laws.

(4) A health care provider shall not engage in false, misleading, or deceptive practices relating to a willingness to qualify an individual or provide a prescription to a qualified individual pursuant Sections 1 to 16 of this Act. Intentionally misleading an individual shall constitute coercion.

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A health care facility may prohibit providers from qualifying, prescribing, or dispensing medication pursuant to this Act while performing duties for the facility. A prohibiting facility must provide advance notice in writing at the time of hiring, contracting with, or privileging providers and staff, and on a yearly basis thereafter; a health care facility that fails to provide explicit, advance notice in writing waives the right to enforce the prohibitions.

(2) If an individual wishes to transfer care to another health care facility, the prohibiting facility shall coordinate a timely transfer, including transfer of the individual’s medical records that include notation of the date the individual first made a request concerning medical aid in dying.

(3) No health care facility shall prohibit a provider from fulfilling the requirements of informed consent and meeting the standard of medical care by:
(a) Providing information to an individual regarding the individual's health status, including but not limited to diagnosis, prognosis, recommended treatment, treatment alternatives, and any potential risks to the individual's health;

(b) Providing information about available services, relevant community resources, and how to access those resources to obtain the care of the individual's choice;

(c) Providing information regarding health care services available pursuant to Sections 1 to 16 of this Act, information about relevant community resources, and how to access those resources for obtaining care of the individual's choice;

(d) Prescribing medication pursuant to Sections 1 to 16 of this Act for a qualified individual outside the scope of provider’s employment or contract with the prohibiting facility and off the premises of the prohibiting facility; or

(e) Being present when a qualified individual self-administers medication prescribed pursuant to Sections 1 to 16 of this Act or at the time of death, if requested by the qualified individual or their representative and outside the scope of the provider’s employment or contractual duties.

(4) A health care facility shall not engage in false, misleading, or deceptive practices relating to its policy around end-of-life care services, including whether it has a policy which prohibits affiliated health care providers from determining an individual's qualification for medical aid in dying, writing a prescription for a qualified individual, or intentionally denying a qualified individual access to medication by failing to transfer an individual and their medical records to another provider in a timely manner. Intentionally misleading an individual or deploying misinformation to obstruct access to services pursuant to Sections 1 to
16 of this Act constitutes coercion or undue influence.

(5) If any part of this section is found to be in conflict with federal requirements which are a prescribed condition to receipt of federal funds to the state, the conflicting part of this section is inoperative solely to the extent of the conflict with respect to the facility directly affected, and such finding or determination shall not affect the operation of the remainder of Sections 1 to 16 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No person or health care facility shall be subject to civil or criminal liability or professional disciplinary action, including censure, suspension, loss of license, loss of privileges, loss of membership, or any other penalty for engaging in good faith compliance with Sections 1 to 16 of this Act.

(2) No provider, health care facility, professional organization, or association shall subject a provider to discharge, demotion, censure, discipline, suspension, loss of license, loss of privileges, loss of membership, discrimination, or any other penalty for providing medical aid in dying in accordance with the standard of care and in good faith under Sections 1 to 16 of this Act.

(3) No provider, health care facility, professional organization, or association shall subject a provider to discharge, demotion, censure, discipline, suspension, loss of license, loss of privileges, loss of membership, discrimination, or any other penalty for providing medical aid in dying in accordance with the standard of care and in good faith under Sections 1 to 16 of this Act when:

(a) Engaging in the outside practice of medicine and off the facility premises;

or

(b) Providing scientific and accurate information about medical aid in dying to an individual when discussing end-of-life care options.

(4) An individual is not subject to civil or criminal liability or professional discipline

(4) An individual is not subject to civil or criminal liability or professional discipline when:

(a) Engaging in the outside practice of medicine and off the facility premises;

or

(b) Providing scientific and accurate information about medical aid in dying to an individual when discussing end-of-life care options.
if, at the request of the qualified individual, they are present outside the scope of
their employment contract and off the facility premises, when the qualified
individual self-administers medication pursuant to Sections 1 to 16 of this Act, or
at the time of death. A person who is present may, without civil or criminal
liability, assist the qualified individual by preparing the medication prescribed
pursuant to Sections 1 to 16 of this Act.

(5) A request by an individual for, and the provision of medication to an individual
pursuant to Sections 1 to 16 of this Act alone, does not constitute neglect or elder
abuse for any purpose of law, nor shall it be the sole basis for appointment of a
guardian or conservator.

(6) This section does not limit civil liability for intentional or negligent misconduct.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
READ AS FOLLOWS:

(1) The Cabinet for Health and Family Services shall:

(a) Annually review all records maintained under Sections 1 to 16 of this Act;

(b) Create an Attending Health Care Provider Checklist Form and Attending
Health Care Provider Follow-Up Form to facilitate collection of the
information described in this section and post it to the cabinet’s Web site;

(c) Require an attending health care provider to submit an Attending Health
Care Provider Checklist Form and Attending Health Care Provider Follow-
Up Form within thirty (30) calendar days after the issuing of the
prescription for or the dispensing of medication;

(d) Require an attending health care provider to submit an Attending Health
Care Provider Checklist Form and Attending Health Care Provider Follow-
Up Form within sixty (60) days of notification of a qualified individual’s
death from self-administration of medication prescribed pursuant to
Sections 1 to 16 of this Act; and
(e) The Attending Health Care Provider Checklist Form and Attending Health Care Provider Follow-Up Form shall include:

1. The qualifying individual’s name and date of birth;
2. The qualifying individual’s terminal diagnosis and prognosis;
3. Notice that the requirements pursuant to Sections 1 to 16 of this Act were completed;
4. Notice that medication has been prescribed;
5. The qualifying individual’s date of death, if deceased; and
6. A notation of whether or not the qualified individual was enrolled in hospice services at the time of the qualified individual’s death.

(2) Within sixty (60) days of the effective date of this Act, the Cabinet for Health and Family Services shall promulgate administrative regulations to facilitate the collection of information relating to compliance with Sections 1 to 16 of this Act. The information collected on individual persons and health care providers shall be confidential, not a public record, and shall not be made available for inspection by the public.

(4) The Cabinet for Health and Family Services shall submit an annual report summarizing information collected under this section to the Interim Joint Committee on Health and Welfare by December 1 of each year. The report shall not include identifying information for individuals or entities. The report shall include the number of prescriptions for medication written, the number of providers who wrote prescriptions for medication, and the number of qualified individuals who died following self-administration of medication prescribed and dispensed pursuant to Sections 1 to 16 of this Act.

⇒ SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any provision in a contract, will, or other agreement, whether written or oral, to
the extent the provision would affect whether a person may make or rescind a
request for medication to self-administer to end the person's life in a humane and
dignified manner, shall be void as against public policy. Any obligation owing
under any currently existing contract shall not be conditioned upon or affected by
the making or rescinding of a request by a person for medication to end the
person's life in a humane and dignified manner.

(2) The sale, procurement, or issuance of any life, health, or accident insurance or
annuity policy or the rate charged for any life, health, or accident insurance or
annuity policy shall not be conditioned upon or affected by the making or
rescinding of a request by a qualified individual for medication that the
individual may self-administer to end the individual's life in accordance with
Sections 1 to 16 of this Act.

(3) A qualified individual whose life is insured under a life insurance policy and the
beneficiaries of the policy shall not be denied benefits on the basis of self-
administration of medication by the qualified individual in accordance with
Sections 1 to 16 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
READ AS FOLLOWS:

(1) Unless otherwise prohibited by law, the attending health care provider or the
hospice medical director may sign the death certificate of a qualified individual
who obtained and self-administered a prescription for medication pursuant to
Sections 1 to 16 of this Act.

(2) When a death has occurred in accordance with Sections 1 to 16 of this Act, the
death shall be attributed to the underlying terminal disease.

(3) Death following self-administering medication under Sections 1 to 16 of this Act
alone does not constitute grounds for post-mortem inquiry.

(4) Death in accordance with Sections 1 to 16 of this Act shall not be designated
suicide, assisted suicide, mercy killing, homicide, or euthanasia.

(5) A qualified individual's act of self-administering medication prescribed pursuant to Sections 1 to 16 of this Act shall not be indicated on the death certificate.

(6) The coroner may conduct a preliminary investigation to determine whether an individual received a prescription for medication pursuant to Sections 1 to 16 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Intentionally altering or forging an individual's request for medication pursuant to Sections 1 to 16 of this Act or concealing or destroying a rescission of a request for medication pursuant to Sections 1 to 16 of this Act is a Class D felony.

(2) Intentionally coercing or exerting undue influence on an individual with a terminal disease to request medication pursuant to Sections 1 to 16 of this Act or to request or utilize medication pursuant to Sections 1 to 16 of this Act is a Class D felony.

(3) Nothing in this section limits civil liability nor damages arising from negligent conduct or intentional misconduct, including failure to obtain informed consent by any person, provider, or health care facility.

(4) The penalties specified in this section do not preclude criminal penalties applicable under other laws for conduct inconsistent with Sections 1 to 16 of this Act.

(5) For purposes of this section "intentionally" has the same meaning as in KRS 501.020.

SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any governmental entity that incurs costs resulting from self-administration of medication prescribed under Section 1 to 16 of this Act in a public place will have a
claim against the estate of the qualified individual to recover these costs and reasonable attorney fees related to enforcing the claim.

SECTION 17. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No insurer shall:

(1) Issue or renew an insurance policy, contract, or annuity that violates the provisions of Section 13 of this Act; or

(2) Deny benefits on the basis of terms in an existing policy, contract, or annuity that are in violation of the provisions of Section 13 of this Act.

Section 18. KRS 507.020 is amended to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Including, but not limited to, the operation of a motor vehicle under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a capital offense.

(3) It shall be an affirmative defense to a charge of murder that the person's conduct was expressly authorized by Sections 1 to 16 of this Act.
Section 19. KRS 507.030 is amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person;

(b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020; or

(c) Through circumstances not otherwise constituting the offense of murder, he or she intentionally abuses another person or knowingly permits another person of whom he or she has actual custody to be abused and thereby causes death to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.

(2) Manslaughter in the first degree is a Class B felony.

(3) It shall be an affirmative defense to a charge of murder that the person's conduct was expressly authorized by Sections 1 to 16 of this Act.

Section 20. If any section, subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions of this Act. The General Assembly specifically states its intention that it would have enacted the Act, or any section or subsection of this Act, without the severed part.

Section 21. Sections 1 to 16 of this Act may be cited as the "Kentucky Our Care, Our Options Act."