

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) As used in this section, "spontaneous miscarriage" has the same meaning as in*
6 *KRS 311.7701.*

7 *(2) Immediately after a spontaneous miscarriage or an abortion, the health care*
8 *provider shall:*

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

11 *(b) Provide the parent or parents of the fetus with written information*
12 *concerning but not limited to the:*

13 *1. Ten (10) business day time limit to determine the final disposition of*
14 *fetal remains;*

15 *2. Available options for disposition of the fetal remains;*

16 *3. Right of the parent or parents to take the fetal remains with them to*
17 *determine the final disposition themselves; and*

18 *4. Health care provider's usual and customary procedure for the final*
19 *disposition of fetal remains.*

20 *(3) (a) The parent or parents of a miscarried or aborted fetus shall inform the*
21 *hospital or abortion facility of the parents' decision for the final disposition*
22 *of the fetus after receiving the information required by subsection (2) of this*
23 *section.*

24 *(b) The hospital or abortion facility shall document the parents' decision in the*
25 *medical record.*

26 *(c) If the parent or parents are under eighteen (18) years of age, or have not*
27 *been emancipated by court order, the documentation shall include consent*

1 by her parent or their parents;

2 (4) If the parent or parents of the miscarried or aborted fetus choose a method of
3 disposition other than the method of final disposition that is usual and customary
4 for the hospital or abortion facility, the parent or parents shall be responsible for
5 the costs related to the final disposition of the fetus.

6 (5) Following a spontaneous miscarriage or abortion, the hospital or abortion
7 facility shall:

8 (a) Ensure that the fetal remains are retained until final disposition is
9 arranged. If remains are stored by the hospital or abortion facility, they
10 shall be stored:

11 1. In the same manner as human remains, not as pathological waste;

12 and

13 2. At no cost to the parent or parents;

14 (b) Release fetal remains to the parent or parents immediately upon request;

15 and

16 (c) Provide for the final disposition of the fetal remains through either
17 cremation or interment within ten (10) business days after the parent or
18 parents decline to take responsibility for the remains, or after no
19 determination has been made by the parent or parents within the initial ten
20 (10) day period specified in subparagraph (2)(b)1. of this section.

21 (6) The cabinet shall design and promulgate through administrative regulations a
22 form that each hospital or abortion facility shall complete for each spontaneous
23 miscarriage or abortion. The form shall not include information that could be
24 used to personally identify the parent or parents of the fetus, but shall document:

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

26 (b) A designation of the final disposition of the fetal remains; and

27 (c) Any other information required by the cabinet to include but not be limited

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- to:
- 1. Gestational age;
- 2. Gender;
- 3. Whether or not the fetus was part of a multiple birth or multiple fetus pregnancy; and
- 4. Any other information that could aid in developing an understanding of the causes of spontaneous miscarriages.

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

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

- (1) "Authorizing agent" means the person legally entitled to order the cremation of the human remains.
- (2) "Casket" means a rigid container which is designed for the encasement of human remains constructed of wood, metal, or other material.
- (3) "Closed container" means a sealed container or urn in which cremated remains are placed and enclosed in a manner that prevents leakage or spillage of cremated remains or the entrance of foreign material.
- (4) "Cremated remains" means the fragments remaining after the cremation process has been completed.
- (5) "Cremation" means the heating process that reduces human remains to bone fragments through combustion and evaporation.
- (6) "Cremation authorization form" means a form promulgated by administrative regulation of the Attorney General that expresses consent to the decedent's cremation. The form shall include information concerning the parties' rights and responsibilities.
- (7) "Cremation chamber" means an enclosed space designed and manufactured for the purpose of cremating human remains.
- (8) "Cremation container" means a container in which human remains may be delivered

- 1 to a crematory for cremation that is:
- 2 (a) Rigid enough to support the weight of the corpse, closed, and leakproof;
- 3 (b) Composed of a combustible material or other material approved by the
- 4 crematory authority; and
- 5 (c) A proper and dignified covering for the human remains.
- 6 (9) "Crematory authority" means the legal entity which is licensed by the Attorney
- 7 General to operate a crematory and conduct cremations. Crematory authority does
- 8 not include state university health science centers.
- 9 (10) "Crematory" means a fixed building or structure that contains one (1) or more
- 10 cremation chambers for the reduction of bodies of deceased persons to cremated
- 11 remains. "Crematory" includes crematorium.
- 12 (11) "Crematory operator" means the person in charge of a licensed crematory authority.
- 13 (12) "Declaration" has the same meaning as in KRS 367.93101.
- 14 (13) "Holding facility" means an area designated for the retention of human remains
- 15 prior to cremation.
- 16 (14) "Human remains" means:
- 17 (a) The body of a deceased person;
- 18 (b) *Fetal remains*; or
- 19 (c) Part of a body or limb that has been removed from a living person, in any state
- 20 of decomposition, prior to cremation.
- 21 (15) "Pathological waste" means human tissues, organs, and blood or body fluids, in
- 22 liquid or semiliquid form that are removed from a person for medical purposes.
- 23 "Pathological waste" does not include amputations or fetal remains.
- 24 (16) "Processed remains" means the end result of pulverization, by which the residual
- 25 from the cremation process is reduced and cleaned leaving only fragments reduced
- 26 to unidentified dimensions.
- 27 (17) "Retort operator" means a person operating a cremation chamber.

1 (18) "Scattering area or garden" means an area which may be designated by a cemetery
2 and located on a dedicated cemetery property where cremated remains which have
3 been removed from their container can be mixed with or placed on top of the soil or
4 ground cover.

5 (19) "Temporary container" means a receptacle for cremated remains, usually made of
6 plastic, cardboard, ceramics, plastic film, wood, or metal, designed to prevent the
7 leakage of processed remains or the entrance of foreign materials which will hold
8 the cremated remains until an urn or other permanent container is acquired.