

1 AN ACT relating to exceptions to restrictions on maternal healthcare.

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

3 ➔Section 1. KRS 311.720 is amended to read as follows:

4 As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context
5 otherwise requires:

6 (1) "Abortion" means the use of any means whatsoever to terminate the pregnancy of a
7 woman known to be pregnant with intent to cause fetal death;

8 (2) "Accepted medical procedures" means procedures of the type performed in the
9 manner and in a facility with equipment sufficient to meet the standards of medical
10 care which physicians engaged in the same or similar lines of work, would
11 ordinarily exercise and devote to the benefit of their patients;

12 (3) "Cabinet" means the Cabinet for Health and Family Services of the Commonwealth
13 of Kentucky;

14 (4) "Consent," as used in KRS 311.710 to 311.820 with reference to those who must
15 give their consent, means an informed consent expressed by a written agreement to
16 submit to an abortion on a written form of consent to be promulgated by the
17 secretary for health and family services;

18 (5) **"Ectopic" means a fetus or embryo which is developing outside of the uterus;**

19 **(6)** "Family planning services" means educational, medical, and social services and
20 activities that enable individuals to determine the number and spacing of their
21 children and to select the means by which this may be achieved;

22 ~~(7)(6)~~ "Fetus" means a human being from fertilization until birth;

23 ~~(8)(7)~~ "Hospital" means those institutions licensed in the Commonwealth of
24 Kentucky pursuant to the provisions of KRS Chapter 216;

25 ~~(9)(8)~~ "Human being" means any member of the species homo sapiens from
26 fertilization until death;

27 **(10) "Lethal fetal anomaly" means a fetal condition diagnosed before birth from**

1 **which an unborn child would die at birth or shortly thereafter, or be stillborn;**

2 **(11)**~~(9)~~ "Medical emergency" means any condition which, on the basis of the
3 physician's good-faith clinical judgment, so complicates the medical condition of a
4 pregnant female as to necessitate the immediate abortion of her pregnancy to avert
5 her death or for which a delay will create serious risk of substantial and irreversible
6 impairment of a major bodily function;

7 **(12)**~~(10)~~ "Medical necessity" means a medical condition of a pregnant woman that, in
8 the **good-faith medical**~~reasonable~~ judgment of the physician who is attending the
9 woman, so complicates the pregnancy that it necessitates the immediate
10 performance or inducement of an abortion;

11 **(13)**~~(11)~~ "Partial-birth abortion" means an abortion in which the physician performing
12 the abortion partially vaginally delivers a living fetus before killing the fetus and
13 completing the delivery;

14 **(14)**~~(12)~~ "Physician" means any person licensed to practice medicine in the
15 Commonwealth or osteopathy pursuant to this chapter;

16 **(15)**~~(13)~~ "Probable gestational age of the embryo or fetus" means the gestational age
17 that, in the judgment of a physician, is, with reasonable probability, the gestational
18 age of the embryo or fetus at the time that the abortion is planned to be performed;

19 **(16)**~~(14)~~ "Public agency" means the Commonwealth of Kentucky; any agency,
20 department, entity, or instrumentality thereof; any city, county, agency, department,
21 entity, or instrumentality thereof; or any other political subdivision of the
22 Commonwealth, agency, department, entity, or instrumentality thereof;

23 **(17)**~~(15)~~ "Vaginally delivers a living fetus before killing the fetus" means deliberately
24 and intentionally delivers into the vagina a living fetus, or a substantial portion
25 thereof, for the purpose of performing a procedure the physician knows will kill the
26 fetus, and kills the fetus; and

27 **(18)**~~(16)~~ "Viability" means that stage of human development when the life of the

1 unborn child may be continued by natural or life-supportive systems outside the
2 womb of the mother.

3 ➔Section 2. KRS 311.723 is amended to read as follows:

- 4 (1) No abortion shall be performed except by a physician~~[after either]~~:
- 5 (a) After the physician~~[He]~~ determines that, in his or her good-faith medical~~[~~
6 ~~best clinical]~~ judgment, the abortion is necessary:
- 7 1. To preserve the life of the pregnant woman or to avoid a serious risk
8 of the substantial and irreversible impairment of a major bodily
9 function of the pregnant woman;
- 10 2. To remove a dead unborn fetus caused by spontaneous abortion;
- 11 3. To remove an ectopic pregnancy or incomplete miscarriage; or
- 12 4. Because of a lethal fetal anomaly or the fetus is incompatible with
13 sustained life outside the womb;
- 14 (b) After the physician~~[He]~~ receives what he or she reasonably believes to be a
15 written statement signed by another physician, hereinafter called the
16 "referring physician," certifying that in the referring physician's good-faith
17 medical~~[best clinical]~~ judgment the abortion is necessary, and, in addition, he
18 or she receives a copy of the report form required by KRS 213.101; or
- 19 (c) If, in the good-faith belief of the physician, the pregnancy is the result of
20 rape under KRS 510.040, 510.050, or 510.060, or incest under KRS 530.020,
21 and the fetus has not reached viability.
- 22 (2) No abortion shall be performed except in compliance with regulations which the
23 cabinet shall issue to ensure that:
- 24 (a) Before the abortion is performed, the pregnant woman shall have a private
25 medical consultation either with the physician who is to perform the abortion
26 or with the referring physician in a place, at a time, and of a duration
27 reasonably sufficient to enable the physician to determine whether, based

1 upon the physician's good-faith medical~~[his best-clinical]~~ judgment, the
2 abortion is necessary;

3 (b) The physician who is to perform the abortion or the referring physician will
4 describe the basis for his or her good-faith medical~~[best-clinical]~~ judgment
5 that the abortion is necessary on a form prescribed by the cabinet as required
6 by KRS 213.101; and

7 (c) Paragraph (a) of this subsection shall not apply when, in the good-faith
8 medical judgment of the attending physician based on the particular facts of
9 the case before him or her, there exists a medical emergency. In such a case,
10 the physician shall describe the basis of his or her good-faith medical
11 judgment that an emergency exists on a form prescribed by the cabinet as
12 required by KRS 213.101.

13 (3) Notwithstanding any statute to the contrary, nothing in this chapter shall be
14 construed as prohibiting a physician from prescribing or a woman from using birth
15 control methods or devices, including~~[,]~~ but not limited to~~[,]~~ intrauterine devices,
16 oral contraceptives, or any other birth control method or device.

17 ➔Section 3. KRS 311.725 is amended to read as follows:

18 (1) No abortion shall be performed or induced except with the voluntary and informed
19 written consent of the woman upon whom the abortion is to be performed or
20 induced. Except in the case of a medical emergency, consent to an abortion is
21 voluntary and informed if and only if:

22 (a) At least twenty-four (24) hours prior to the abortion, a physician, licensed
23 nurse, physician assistant, or social worker to whom the responsibility has
24 been delegated by the physician has verbally informed the woman of all of the
25 following:

26 1. The nature and purpose of the particular abortion procedure or treatment
27 to be performed and of those medical risks and alternatives to the

- 1 procedure or treatment that a reasonable patient would consider material
2 to the decision of whether or not to undergo the abortion;
- 3 2. The probable gestational age of the embryo or fetus at the time the
4 abortion is to be performed;
- 5 3. The medical risks associated with the pregnant woman carrying her
6 pregnancy to term; and
- 7 4. The potential ability of a physician to reverse the effects of prescription
8 drugs intended to induce abortion, where additional information about
9 this possibility may be obtained, and contact information for assistance
10 in locating a physician who may aid in the reversal;
- 11 (b) At least twenty-four (24) hours prior to the abortion, in an individual, private
12 setting, a physician, licensed nurse, physician assistant, or social worker to
13 whom the responsibility has been delegated by the physician has informed the
14 pregnant woman that:
- 15 1. The cabinet publishes the printed materials described in subsection
16 (2)(a), (b), and (c) of this section and that she has a right to review the
17 printed materials and that copies will be provided to her by the
18 physician, licensed nurse, physician assistant, or social worker free of
19 charge if she chooses to review the printed materials;
- 20 2. Medical assistance benefits may be available for prenatal care,
21 childbirth, and neonatal care, and that more detailed information on the
22 availability of such assistance is contained in the printed materials
23 published by the cabinet;
- 24 3. The father of the fetus is liable to assist in the support of her child, even
25 in instances where he has offered to pay for the abortion; and
- 26 4. It is illegal in Kentucky to intentionally perform an abortion, in whole or
27 in part, because of:

- 1 a. The sex of the unborn child;
- 2 b. The race, color, or national origin of the unborn child; or
- 3 c. The diagnosis, or potential diagnosis, of Down syndrome or any
- 4 other disability, *except a lethal fetal anomaly or the fetus is*
- 5 *incompatible with sustained life outside of the womb;*
- 6 (c) At least twenty-four (24) hours prior to the abortion, a copy of the printed
- 7 materials has been provided to the pregnant woman if she chooses to view
- 8 these materials;
- 9 (d) The pregnant woman certifies in writing, prior to the performance or
- 10 inducement of the abortion:
- 11 1. That she has received the information required to be provided under
- 12 paragraphs (a), (b), and (c) of this subsection; and
- 13 2. That she consents to the particular abortion voluntarily and knowingly,
- 14 and she is not under the influence of any drug of abuse or alcohol; and
- 15 (e) Prior to the performance or inducement of the abortion, the physician who is
- 16 scheduled to perform or induce the abortion or the physician's agent receives a
- 17 copy of the pregnant woman's signed statement, on a form which may be
- 18 provided by the physician, on which she consents to the abortion and that
- 19 includes the certification required by paragraph (d) of this subsection.
- 20 (2) ~~[By January 1, 1999,]~~The cabinet shall cause to be published in English in a
- 21 typeface not less than 12 point type the following~~[materials]~~:
- 22 (a) Materials that inform the pregnant woman about public and private agencies
- 23 and services that are available to assist her through her pregnancy, upon
- 24 childbirth, and while her child is dependent, including~~[]~~ but not limited to~~[]~~
- 25 adoption agencies. The materials shall include a comprehensive list of the
- 26 available agencies and a description of the services offered by the agencies
- 27 and the telephone numbers and addresses of the agencies, and inform the

1 pregnant woman about available medical assistance benefits for prenatal care,
2 childbirth, and neonatal care and about the support obligations of the father of
3 a child who is born alive. The cabinet shall ensure that the materials are
4 comprehensive and do not directly or indirectly promote, exclude, or
5 discourage the use of any agency or service described in this section;

6 (b) Materials that inform the pregnant woman of the probable anatomical and
7 physiological characteristics of the zygote, blastocyte, embryo, or fetus at two
8 (2) week gestational increments for the first sixteen (16) weeks of her
9 pregnancy and at four (4) week gestational increments from the seventeenth
10 week of her pregnancy to full term, including any relevant information
11 regarding the time at which the fetus possibly would be viable. The materials
12 shall use language that is understandable by the average person who is not
13 medically trained, shall be objective and nonjudgmental, and shall include
14 only accurate scientific information about the zygote, blastocyte, embryo, or
15 fetus at the various gestational increments. The materials shall include, for
16 each of the two (2) ~~or~~ four (4) week increments specified in this
17 paragraph, a pictorial or photographic depiction of the zygote, blastocyte,
18 embryo, or fetus. The materials shall also include, in a conspicuous manner, a
19 scale or other explanation that is understandable by the average person and
20 that can be used to determine the actual size of the zygote, blastocyte, embryo,
21 or fetus at a particular gestational increment as contrasted with the depicted
22 size of the zygote, blastocyte, embryo, or fetus at that gestational increment;
23 and

24 (c) Materials that inform the pregnant woman of the potential ability of a
25 physician to reverse the effects of prescription drugs intended to induce
26 abortion, where additional information about this possibility may be obtained,
27 and contact information for assistance in locating a physician who may aid in

1 the reversal.

2 (3) Upon submission of a request to the cabinet by any person, hospital, physician, or
3 medical facility for one (1) or more copies of the materials published in accordance
4 with subsection (2) of this section, the cabinet shall make the requested number of
5 copies of the materials available to the person, hospital, physician, or medical
6 facility that requested the copies.

7 (4) If a medical emergency or medical necessity compels the performance or
8 inducement of an abortion, the physician who will perform or induce the abortion,
9 prior to its performance or inducement if possible, shall inform the pregnant woman
10 of the medical indications supporting the physician's judgment that an immediate
11 abortion is necessary. Any physician who performs or induces an abortion without
12 the prior satisfaction of the conditions specified in subsection (1) of this section
13 because of a medical emergency or medical necessity shall enter the reasons for the
14 conclusion that a medical emergency or medical necessity exists in the medical
15 record of the pregnant woman.

16 (5) If the conditions specified in subsection (1) of this section are satisfied, consent to
17 an abortion shall be presumed to be valid and effective.

18 (6) The failure of a physician to satisfy the conditions of subsection (1) of this section
19 prior to performing or inducing an abortion upon a pregnant woman may be the
20 basis of disciplinary action pursuant to KRS 311.595.

21 (7) The cabinet shall charge a fee for each copy of the materials distributed in
22 accordance with subsections (1) and (3) of this section. The fee shall be sufficient to
23 cover the cost of the administration of the materials published in accordance with
24 subsection (2) of this section, including the cost of preparation and distribution of
25 materials.

26 ➔Section 4. KRS 311.727 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Auscultate~~[Aseultate]~~" means to examine by listening for sounds made by
2 internal organs of the fetus, specifically for a fetal heartbeat, utilizing an
3 ultrasound transducer or a fetal heart rate monitor;
- 4 (b) "Obstetric ultrasound" or "ultrasound" means the use of ultrasonic waves for
5 diagnostic or therapeutic purposes, specifically to monitor a developing fetus;
6 and
- 7 (c) "Qualified technician" means a medical imaging technologist as defined in
8 KRS 311B.020 who is certified in obstetrics and gynecology by the American
9 Registry for Diagnostic Medical Sonography or a nurse midwife or advance
10 practice nurse practitioner in obstetrics with certification in obstetrical
11 ultrasonography.
- 12 (2) Prior to a woman giving informed consent to having any part of an abortion
13 performed, the physician who is to perform the abortion or a qualified technician to
14 whom the responsibility has been delegated by the physician shall:
- 15 (a) Perform an obstetric ultrasound on the pregnant woman;
- 16 (b) Provide a simultaneous explanation of what the ultrasound is depicting, which
17 shall include the presence and location of the unborn child within the uterus
18 and the number of unborn children depicted and also, if the ultrasound image
19 indicates that fetal demise has occurred, inform the woman of that fact;
- 20 (c) Display the ultrasound images so that the pregnant woman may view the
21 images;
- 22 (d) Auscultate~~[Aseultate]~~ the fetal heartbeat of the unborn child so that the
23 pregnant woman may hear the heartbeat if the heartbeat is audible;
- 24 (e) Provide a medical description of the ultrasound images, which shall include
25 the dimensions of the embryo or fetus and the presence of external members
26 and internal organs, if present and viewable; and
- 27 (f) Retain in the woman's medical record a signed certification from the pregnant

1 woman that she has been presented with the information required to be
2 provided under paragraphs (c) and (d) of this subsection and has viewed the
3 ultrasound images, listened to the heartbeat if the heartbeat is audible, or
4 declined to do so. The signed certification shall be on a form prescribed by the
5 cabinet.

6 (3) When the ultrasound images and heartbeat sounds are provided to and reviewed
7 with the pregnant woman, nothing in this section shall be construed to prevent the
8 pregnant woman from averting her eyes from the ultrasound images or requesting
9 the volume of the heartbeat be reduced or turned off if the heartbeat is audible.
10 Neither the physician, the qualified technician, nor the pregnant woman shall be
11 subject to any penalty if the pregnant woman refuses to look at the displayed
12 ultrasound images or to listen to the heartbeat if the heartbeat is audible.

13 (4) The requirements of this section shall be in addition to any requirement contained
14 in KRS 311.725 or any other section of KRS 311.710 to 311.820.

15 (5) The provisions of this section shall not apply:

16 (a) In the case of a medical emergency or medical necessity. If a medical
17 emergency or medical necessity compels the performance or inducement of an
18 abortion, the physician who will perform or induce the abortion, prior to its
19 performance or inducement if possible, shall inform the pregnant woman of
20 the medical indications supporting the physician's judgment that an immediate
21 abortion is necessary. Any physician who performs or induces an abortion
22 without the prior satisfaction of the requirements of this section because of a
23 medical emergency or medical necessity shall enter the reasons for the
24 conclusion that a medical emergency or medical necessity exists in the
25 medical record of the pregnant woman;

26 (b) *If the fetus the pregnant woman is carrying has a lethal anomaly or is*
27 *incompatible with sustained life outside of the womb; or*

1 (c) If, in the good-faith belief of the physician, the pregnancy is the result of
2 rape under KRS 510.040, 510.050, or 510.060, or incest under KRS 530.020,
3 and the fetus has not reached viability.

4 ➔Section 5. KRS 311.732 is amended to read as follows:

5 (1) For purposes of this section the following definitions shall apply:

6 (a) "Minor" means any person under the age of eighteen (18);

7 (b) "Emancipated minor" means any minor who is or has been married or has by
8 court order or otherwise been freed from the care, custody, and control of her
9 parents; and

10 (c) "Abortion" means the use of any instrument, medicine, drug, or any other
11 substance or device with intent to terminate the pregnancy of a woman known
12 to be pregnant with intent other than to increase the probability of a live birth,
13 to preserve the life or health of the child after live birth,~~[-or]~~ to remove a dead
14 fetus, ectopic pregnancy, or incomplete miscarriage, or as provided under
15 subsection (4) of this section.

16 (2) No person shall perform an abortion upon a minor unless:

17 (a) The attending physician has secured the informed written consent of the
18 minor and one (1) parent or legal guardian with joint or physical custody and
19 the consenting parent or legal guardian of the minor has made a reasonable
20 attempt to notify any other parent with joint or physical custody at least forty-
21 eight (48) hours prior to providing the informed written consent.

22 1. Notice shall not be required to be provided to any parent who has:

23 a. Previously been enjoined by a domestic violence order or
24 interpersonal protective order, regardless of whether or not the
25 person to be protected by the order was the minor; or

26 b. Been convicted of, or entered into a diversion program for, a
27 criminal offense against a victim who is a minor as defined in

1 KRS 17.500 or for a violent or sexual criminal offense under KRS
2 Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531.

- 3 2. The informed written consent shall include:
- 4 a. A copy of the minor's government-issued identification, a copy of
5 the consenting parent's or legal guardian's government-issued
6 identification, and written documentation including but not limited
7 to a birth certificate, court-ordered custodial paperwork, or tax
8 return, establishing that he or she is the lawful parent or legal
9 guardian; and
- 10 b. The parent's or legal guardian's certification that he or she consents
11 to the abortion. The certification shall be in a signed, dated, and
12 notarized document that has been initialed on each page and that
13 contains the following statement, which shall precede the signature
14 of the parent or legal guardian: "I, (insert name of parent or legal
15 guardian), am the (select "parent" or "legal guardian") of (insert
16 name of minor) and give consent for (insert name of attending
17 physician) to perform an abortion on her. Under penalties of
18 perjury, I declare that I have read the foregoing statement and that
19 the facts stated in it are true."
- 20 3. The attending physician shall keep a copy of the informed written
21 consent in the medical file of the minor for five (5) years after the minor
22 reaches eighteen (18) years of age or for seven (7) years, whichever is
23 longer.
- 24 4. The attending physician securing the informed written consent from a
25 parent or legal guardian under this subsection shall execute for inclusion
26 in the medical record of the minor an affidavit stating: "I, (insert name
27 of attending physician), certify that, according to my best information

- 1 and belief, a reasonable person under similar circumstances would rely
2 on the information presented by both the minor and her parent or legal
3 guardian as sufficient evidence of identity.";
- 4 (b) The minor is emancipated and the attending physician has received the
5 informed written consent of the minor; or
- 6 (c) The minor elects to petition any Circuit or District Court of the
7 Commonwealth pursuant to subsection (3) of this section and obtain an order
8 pursuant to subsection (4) of this section granting consent to the abortion and
9 the attending physician has received the informed written consent of the
10 minor.
- 11 (3) Every minor shall have the right to petition any Circuit or District Court of the
12 Commonwealth for an order granting the right to self-consent to an abortion
13 pursuant to the following procedures:
- 14 (a) The minor or her next friend may prepare and file a petition setting forth the
15 request of the minor for an order of consent to an abortion;
- 16 (b) The court shall ensure that the minor prepares or her next friend is given
17 assistance in preparing and filing the petition and shall ensure that the minor's
18 identity is kept anonymous;
- 19 (c) The minor may participate in proceedings in the court on her own behalf or
20 through her next friend and the court shall appoint a guardian ad litem for her.
21 The court shall advise her that she has a right to court-appointed counsel and
22 shall provide her with such counsel upon her request;
- 23 (d) All proceedings under this section shall be anonymous and shall be given
24 preference over other matters to ensure that the court may reach a decision
25 promptly, but in no case shall the court fail to rule within seventy-two (72)
26 hours of the time of application, provided that the seventy-two (72) hour
27 limitation may be extended at the request of the minor; and

- 1 (e) The court shall hold a hearing on the merits of the petition before reaching a
- 2 decision. The court shall hear evidence at the hearing relating to:
- 3 1. The minor's:
- 4 a. Age;
- 5 b. Emotional development and stability;
- 6 c. Maturity;
- 7 d. Intellect;
- 8 e. Credibility and demeanor as a witness;
- 9 f. Ability to accept responsibility;
- 10 g. Ability to assess both the current and future life-impacting
- 11 consequences of, and alternatives to, the abortion; and
- 12 h. Ability to understand and explain the medical risks of the abortion
- 13 and to apply that understanding to her decision; and
- 14 2. Whether there may be any undue influence by another on the minor's
- 15 decision to have an abortion.
- 16 (4) (a) If the court finds by:
- 17 1. Clear and convincing evidence that the minor is sufficiently mature to
- 18 decide whether to have an abortion;
- 19 2. Clear and convincing evidence that the requirements of this section are
- 20 not in the best interest of the minor; or
- 21 3. A preponderance of the evidence that the minor is:
- 22 a. The victim of child abuse or sexual abuse inflicted by one (1) or
- 23 both of her parents or her legal guardian;
- 24 b. *Pregnant as a result of rape under KRS 510.040, 510.050, or*
- 25 *510.060, or incest under KRS 530.020, and the fetus has not*
- 26 *reached viability;*
- 27 c. *Pregnant with a fetus that has a lethal fetal abnormality or the*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

fetus is incompatible with sustained life outside the womb; or
d. Requires the abortion to remove a dead fetus, ectopic pregnancy,
or incomplete miscarriage;

the court shall enter a written order, making specific factual findings and legal conclusions supporting its decision to grant the petition for an abortion.

(b) If the court does not make any of the findings specified in paragraph (a) of this subsection, the court shall deny the petition.

(c) As used in this subsection, "best interest of the minor" shall not include financial best interest, financial considerations, or the potential financial impact on the minor or the minor's family if the minor does not have an abortion.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) All hearings under this section, including appeals, shall remain confidential and closed to the public. The hearings shall be held in chambers or in a similarly private and informal setting within the courthouse.

(7) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(8) (a) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(b) The Supreme Court, through the Administrative Office of the Courts, shall report by February 1 of each year to the Legislative Research Commission and the cabinet on the number of petitions filed under subsection (3) of this section for the preceding year, and the timing and manner of disposal of the petition by each court. For each approved petition granting an abortion filed under subsection (3) of this section, the specific court finding in subsection

- 1 (4) of this section shall be included in the report.
- 2 (9) (a) The requirements of subsections (2), (3), and (4) of this section shall not apply
3 when, in the best medical judgment of the physician based on the facts of the
4 case before him or her, a medical emergency exists that so complicates the
5 pregnancy as to require an immediate abortion.
- 6 (b) If a medical emergency exists, the physician shall make reasonable attempts,
7 whenever possible, and without endangering the minor, to contact the parent
8 or legal guardian of the minor, and may proceed, but must document reasons
9 for the medical necessity in the minor's medical records.
- 10 (c) The physician shall inform the parent or legal guardian, in person or by
11 telephone, within twenty-four (24) hours of the abortion, including details of
12 the medical emergency that necessitated the abortion without the parent's or
13 legal guardian's consent. The physician shall also provide this information in
14 writing to the parent or legal guardian at his or her last known address by
15 first-class mail or by certified mail, return receipt requested, with delivery
16 restricted to the parent or legal guardian.
- 17 (10) A report indicating the basis for any medical judgment that warrants failure to
18 obtain consent pursuant to this section shall be filed with the Cabinet for Health and
19 Family Services on a form supplied by the cabinet. This report shall be confidential.
- 20 (11) Failure to obtain consent pursuant to the requirements of this section is prima facie
21 evidence of failure to obtain informed consent and of interference with family
22 relations in appropriate civil actions. The law of this state shall not be construed to
23 preclude the award of exemplary damages in any appropriate civil action relevant to
24 violations of this section. Nothing in this section shall be construed to limit the
25 common-law rights of parents.
- 26 (12) A minor upon whom an abortion is performed is not guilty of violating this section.
27 ➔Section 6. KRS 311.735 is amended to read as follows:

- 1 (1) Prior to performing an abortion, the physician who is to perform the abortion or ***the***
2 ***physician's***~~[his]~~ agent shall notify, if reasonably possible, the spouse of the woman
3 upon whom the abortion is to be performed. If it is not reasonably possible to notify
4 the spouse prior to the abortion, the physician or his ***or her*** agent shall do so, if
5 reasonably possible, within thirty (30) days of the abortion.
- 6 (2) (a) The requirements of this section shall not apply if, before the abortion is
7 performed, either party to a marriage has filed a petition for dissolution of
8 marriage which has been served on the respondent.~~[;]~~
- 9 (b) The requirements of this section shall not apply when, in the medical
10 judgment of the attending physician based on the particular facts of the case
11 before ***the physician***~~[him]~~, there exists a medical emergency. In such a case,
12 the physician shall describe the basis of his ***or her*** medical judgment that such
13 an emergency exists on a form prescribed by the cabinet as required by KRS
14 213.101, and the physician or his ***or her*** agent shall notify, if reasonably
15 possible, the spouse of the woman upon whom the abortion was performed,
16 within thirty (30) days of the abortion.
- 17 ***(c) The requirements of this section shall not apply when the abortion is***
18 ***performed or induced:***
- 19 ***1. To remove a dead unborn fetus;***
- 20 ***2. To remove an ectopic pregnancy or incomplete miscarriage;***
- 21 ***3. Due to a lethal fetal anomaly or the fetus is incompatible with***
22 ***sustained life outside of the womb; or***
- 23 ***4. By a physician with the good-faith belief that the pregnancy is the***
24 ***result of rape under KRS 510.040, 510.050, or 510.060, or incest***
25 ***under KRS 530.020, and the fetus has not reached viability.***
- 26 (3) Failure to notify a spouse as required by this section is prima facie evidence of
27 interference with family relations in appropriate civil actions. The law of this

1 Commonwealth shall not be construed to preclude the award of punitive damages or
2 damages for emotional distress, even if unaccompanied by physical complications
3 in any civil action brought pursuant to violations of this section. Nothing in this
4 section shall be construed to limit the common law rights of a husband.

5 ➔Section 7. KRS 311.760 is amended to read as follows:

6 An abortion may be performed in this state only under the following circumstances:

- 7 (1) During the first trimester of pregnancy by a woman upon herself upon the advice of
8 a licensed physician or by a licensed physician.
- 9 (2) After the first trimester of pregnancy, except in cases of emergency to protect the
10 life or health of the pregnant woman, where an abortion is permitted under other
11 provisions of KRS 311.710 to 311.820 or 311.7701 to 311.7711, by a duly licensed
12 physician in a hospital duly licensed by the Kentucky Health Facilities and Health
13 Services Certificate of Need and Licensure Board.

14 ➔Section 8. KRS 311.7701 is amended to read as follows:

15 As used in KRS 311.7701 to 311.7711:

- 16 (1) "Conception" means fertilization;
- 17 (2) "Contraceptive" means a drug, device, or chemical that prevents conception;
- 18 (3) "Fertilization" has the same meaning as in KRS 311.781;
- 19 (4) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic
20 contraction of the fetal heart within the gestational sac;
- 21 (5) "Fetus" means the human offspring developing during pregnancy from the moment
22 of conception and includes the embryonic stage of development;
- 23 (6) "Frivolous conduct" has the same meaning as in KRS 311.784;
- 24 (7) "Gestational age" means the age of an unborn human individual as calculated from
25 the first day of the last menstrual period of a pregnant woman;
- 26 (8) "Gestational sac" means the structure that comprises the extraembryonic
27 membranes that envelop the fetus and that is typically visible by ultrasound after

1 the fourth week of pregnancy;

2 (9) "Intrauterine pregnancy" means a pregnancy in which the fetus is attached to the
3 placenta within the uterus of the pregnant woman;

4 (10) **"Lethal fetal anomaly" has the same meaning as in Section 1 of this Act;**

5 **(11)** "Medical emergency" has the same meaning as in KRS 311.781;

6 **(12)**~~(11)~~ "Physician" has the same meaning as in KRS 311.720;

7 **(13)**~~(12)~~ "Pregnancy" means the human female reproductive condition that begins with
8 fertilization, when the woman is carrying the developing human offspring, and that
9 is calculated from the first day of the last menstrual period of the woman;

10 **(14)**~~(13)~~ "Serious risk of the substantial and irreversible impairment of a major bodily
11 function" has the same meaning as in KRS 311.781;

12 **(15)**~~(14)~~ "Spontaneous miscarriage" means the natural or accidental termination of a
13 pregnancy and the expulsion of the fetus, typically caused by genetic defects in the
14 fetus or physical abnormalities in the pregnant woman;

15 **(16)**~~(15)~~ "Standard medical practice" means the degree of skill, care, and diligence that
16 a physician of the same medical specialty would employ in like circumstances. As
17 applied to the method used to determine the presence of a fetal heartbeat for
18 purposes of KRS 311.7704, "standard medical practice" includes employing the
19 appropriate means of detection depending on the estimated gestational age of the
20 fetus and the condition of the woman and her pregnancy;~~and~~

21 **(17)**~~(16)~~ "Unborn child" and "unborn human individual" have the same meaning as
22 "unborn child" has in KRS 311.781; **and**

23 **(18) "Viability" has the same meaning as in Section 1 of this Act.**

24 ➔Section 9. KRS 311.7706 is amended to read as follows:

25 (1) Except as provided in subsection (2) of this section, no person shall intentionally
26 perform or induce an abortion on a pregnant woman with the specific intent of
27 causing or abetting the termination of the life of the unborn human individual the

1 pregnant woman is carrying and whose fetal heartbeat has been detected in
2 accordance with KRS 311.7704(1).

3 (2) (a) Subsection (1) of this section shall not apply to a physician who performs a
4 medical procedure that, in the physician's ~~good-faith~~^{reasonable} medical
5 judgment:~~;~~

6 1. Is designed or intended to prevent the death of the pregnant woman or to
7 prevent a serious risk of the substantial and irreversible impairment of a
8 major bodily function of the pregnant woman;

9 2. *Is necessary because of a lethal fetal anomaly or the fetus is*
10 *incompatible with sustained life outside the womb; or*

11 3. *Is performed because, in the good-faith belief of the physician, the*
12 *pregnancy is the result of rape under KRS 510.040, 510.050, or*
13 *510.060, or incest under KRS 530.020, and the fetus has not reached*
14 *viability.*

15 (b) A physician who performs a medical procedure as described in paragraph
16 (a)1. of this subsection shall, in writing:

17 1. Declare that the medical procedure is necessary, to the best of the
18 physician's ~~good-faith~~^{reasonable} medical judgment, to prevent the
19 death of the pregnant woman or to prevent a serious risk of the
20 substantial and irreversible impairment of a major bodily function of the
21 pregnant woman; and

22 2. Specify the pregnant woman's medical condition that the medical
23 procedure is asserted to address and the medical rationale for the
24 physician's conclusion that the medical procedure is necessary to
25 prevent the death of the pregnant woman or to prevent a serious risk of
26 the substantial and irreversible impairment of a major bodily function of
27 the pregnant woman.

- 1 (c) A physician who performs a medical procedure as described in paragraph
2 (a)2. of this subsection shall, in writing:
3 1. Declare that the medical procedure is necessary, to the best of the
4 physician's good-faith medical judgment, because of a lethal fetal
5 anomaly or the fetus is incompatible with sustained life outside the
6 womb; and
7 2. Specify the lethal anomaly or condition of the fetus that is
8 incompatible with sustained life outside the womb.
9 (d) A physician who performs a medical procedure as described in paragraph
10 (a)3. of this subsection shall, in writing, specify the basis for the
11 determination that the fetus has not reached viability.
12 (e) The physician shall place the written document required by paragraph (b),
13 (c), or (d)~~paragraph (b)~~ of this subsection in the pregnant woman's medical
14 records. The physician shall maintain a copy of the document in the
15 physician's own records for at least seven (7) years from the date the
16 document is created.
- 17 (3) A person is not in violation of subsection (1) of this section if the person acts in
18 accordance with KRS 311.7704(1) and the method used to determine the presence
19 of a fetal heartbeat does not reveal a fetal heartbeat.
- 20 (4) A pregnant woman on whom an abortion is intentionally performed or induced in
21 violation of subsection (1) of this section is not guilty of violating subsection (1) of
22 this section or of attempting to commit, conspiring to commit, or complicity in
23 committing a violation of subsection (1) of this section. In addition, the pregnant
24 woman is not subject to a civil penalty based on the abortion being performed or
25 induced in violation of subsection (1) of this section.
- 26 (5) Subsection (1) of this section shall not repeal or limit any other provision of the
27 Kentucky Revised Statutes that restricts or regulates the performance or inducement

1 of an abortion by a particular method or during a particular stage of a pregnancy.

2 ➔Section 10. KRS 311.772 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Fertilization" means that point in time when a male human sperm penetrates
5 the zona pellucida of a female human ovum;

6 (b) "Pregnant" means the human female reproductive condition of having a living
7 unborn human being within her body throughout the entire embryonic and
8 fetal stages of the unborn child from fertilization to full gestation and
9 childbirth; and

10 (c) "Unborn human being" means an individual living member of the species
11 homo sapiens throughout the entire embryonic and fetal stages of the unborn
12 child from fertilization to full gestation and childbirth.

13 (2) The provisions of this section shall become effective immediately upon, and to the
14 extent permitted, by the occurrence of any of the following circumstances:

15 (a) Any decision of the United States Supreme Court which reverses, in whole or
16 in part, *Roe v. Wade*, 410 U.S. 113 (1973), thereby restoring to the
17 Commonwealth of Kentucky the authority to prohibit abortion; or

18 (b) Adoption of an amendment to the United States Constitution which, in whole
19 or in part, restores to the Commonwealth of Kentucky the authority to prohibit
20 abortion.

21 (3) (a) **Except as provided in subsections (4) and (6) of this section,** no person may
22 knowingly:

23 1. Administer to, prescribe for, procure for, or sell to any pregnant woman
24 any medicine, drug, or other substance with the specific intent of
25 causing or abetting the termination of the life of an unborn human being;

26 or

27 2. Use or employ any instrument or procedure upon a pregnant woman

1 with the specific intent of causing or abetting the termination of the life
2 of an unborn human being.

3 (b) Any person who violates paragraph (a) of this subsection shall be guilty of a
4 Class D felony.

5 (4) The following shall not be a violation of subsection (3) of this section:

6 (a) For a licensed physician to perform a medical procedure necessary in ***the***
7 ***good-faith***~~reasonable~~ medical judgment ***of the physician*** to prevent the
8 death or substantial risk of death due to a physical condition, or to prevent the
9 serious, permanent impairment of a life-sustaining organ of a pregnant
10 woman. However, ***except in circumstances under paragraphs (b) and (c) of***
11 ***this subsection***, the physician shall make reasonable medical efforts under the
12 circumstances to preserve both the life of the mother and the life of the unborn
13 human being in a manner consistent with reasonable medical practice;~~or~~

14 (b) ***For a licensed physician to perform an abortion because of a lethal fetal***
15 ***anomaly or the fetus is incompatible with sustained life outside the womb of***
16 ***the pregnant woman;***

17 (c) ***For a licensed physician to perform an abortion if, in the good-faith belief***
18 ***of the physician, the pregnancy is the result of rape under KRS 510.040,***
19 ***510.050, or 510.060, or incest under KRS 530.020, and the fetus has not***
20 ***reached viability; or***

21 (d) Medical treatment provided to the mother by a licensed physician which
22 results in the accidental or unintentional injury or death to the unborn human
23 being.

24 (5) Nothing in this section may be construed to subject the pregnant mother upon
25 whom any abortion is performed or attempted to any criminal conviction and
26 penalty.

27 (6) (a) Nothing in this section may be construed to prohibit the sale, use,

1 prescription, or administration of a contraceptive measure, drug, or chemical,
 2 if it is administered prior to the time when a pregnancy could be determined
 3 through conventional medical testing and if the contraceptive measure is sold,
 4 used, prescribed, or administered in accordance with manufacturer
 5 instructions.

6 **(b) Nothing in this section may be construed to prohibit the sale, use,**
 7 **prescription, or administration of any medicine, drug, or other substance**
 8 **with the specific intent of causing or abetting the termination of the life of**
 9 **an unborn human being in accordance with subsection (4) of this section.**

10 (7) The provisions of this section shall be effective relative to the appropriation of
 11 Medicaid funds, to the extent consistent with any executive order by the President
 12 of the United States, federal statute, appropriation rider, or federal regulation that
 13 sets forth the limited circumstances in which states must fund abortion to remain
 14 eligible to receive federal Medicaid funds pursuant to 42 U.S.C. secs. 1396 et seq.

15 ➔Section 11. KRS 311.7735 is amended to read as follows:

16 (1) An abortion-inducing drug as defined in KRS 311.7731 shall not be provided to a
 17 pregnant patient without the informed consent of the patient. Informed consent shall
 18 be obtained at least twenty-four (24) hours before the abortion-inducing drug is
 19 provided to a pregnant patient, except if:

20 **(a) In the good-faith belief of the physician, the pregnancy is the result of rape**
 21 **under KRS 510.040, 510.050, or 510.060, or incest under KRS 530.020, and**
 22 **the fetus has not reached viability; or**

23 **(b) In the ~~good-faith~~ reasonable medical judgment of the qualified physician,**
 24 **compliance with this subsection would pose a risk of:**

25 **1. ~~(a)~~** The death of the pregnant patient; or

26 **2. ~~(b)~~** The substantial and irreversible physical impairment of a major
 27 bodily function, not including psychological or emotional conditions, of

1 the pregnant patient.

- 2 (2) A qualified physician shall use a form created by the Cabinet for Health and Family
3 Services to obtain the consent required prior to providing an abortion-inducing drug
4 as defined in KRS 311.7731 and submit the completed form to the cabinet.
- 5 (3) A consent form is not valid and consent is not sufficient, unless:
- 6 (a) The patient initials each entry, list, description, or declaration required to be
7 on the consent form;
- 8 (b) The patient signs the consent statement; and
- 9 (c) The qualified physician signs the qualified physician declaration.
- 10 (4) The consent form shall include but is not limited to the following:
- 11 (a) The probable gestational age of the unborn child as determined by both
12 patient history and by ultrasound results used to confirm gestational age;
- 13 (b) A detailed description of the steps to complete the drug-induced abortion;
- 14 (c) A detailed list of the risks related to the specific abortion-inducing drug as
15 defined in KRS 311.7731 or drugs to be used, including potential
16 complications and adverse events as defined in KRS 311.7731;
- 17 (d) If the pregnant patient was Rh negative, the pregnant patient was provided
18 with an Rh negative information fact sheet and offered treatment with the
19 prevailing medical standard of care to prevent harmful fetal or child outcomes
20 or Rh incompatibility in future pregnancies;
- 21 (e) That the risks of complications from a medication abortion, including
22 incomplete abortion, increase with advancing gestational age;
- 23 (f) That it may be possible to reverse the effects of the abortion-inducing drug if
24 desired but that this should be done as soon as possible;
- 25 (g) That the patient may see the remains of the unborn child in the process of
26 completing the abortion;
- 27 (h) That initial studies suggest that children born after reversing the effects of the

1 abortion-inducing drug mifeprex/mifepristone have no greater risk of birth
2 defects than the general population;

3 (i) That initial studies suggest that there is no increased risk of maternal mortality
4 after reversing the effects of the abortion-inducing drug
5 mifeprex/mifepristone;

6 (j) That information on and assistance with reversing the effects of abortion-
7 inducing drugs are available in the state-prepared materials and on the
8 cabinet's website~~[Web site]~~;

9 (k) An "acknowledgment of risks and consent statement" which the pregnant
10 patient shall sign. The pregnant patient shall initial by each statement and the
11 statement shall include but is not limited to the following declarations:

12 1. That the pregnant patient understands that the abortion-inducing drug
13 regimen or procedure is intended to end the pregnancy and will result in
14 the death of the unborn child;

15 2. That the pregnant patient is not being forced to have an abortion, has the
16 choice not to have the abortion, and may withdraw consent to the
17 abortion-inducing drug regimen even after it has been provided;

18 3. That the pregnant patient understands that the abortion-inducing drug to
19 be provided has specific risks and may result in specific complications;

20 4. That the pregnant patient has been given the opportunity to ask
21 questions about the pregnancy, the development of the unborn child,
22 alternatives to abortion, the abortion-inducing drug or drugs to be used,
23 and the risks and complications possible when abortion-inducing drugs
24 are provided;

25 5. That the pregnant patient was specifically told that information on the
26 potential ability of qualified medical professionals to reverse the effects
27 of a drug-induced abortion is available and where to obtain information

- 1 for assistance in locating a medical professional that can aid in the
2 reversal of a drug-induced abortion;
- 3 6. That the pregnant patient has been provided access to printed materials
4 on informed consent for abortion;
- 5 7. That the pregnant patient has been given the name and phone number of
6 the associated physician who has agreed to provide medical care and
7 treatment in the event of complications associated with the abortion-
8 inducing drug regimen or procedure;
- 9 8. That the qualified physician will schedule an in-person follow-up visit
10 for the patient for approximately seven (7) to fourteen (14) days after
11 providing the abortion-inducing drug or drugs to confirm that the
12 pregnancy is completely terminated and to assess any degree of bleeding
13 and other complications;
- 14 9. That the pregnant patient has received or been given sufficient
15 information to give informed consent to the abortion-inducing drug
16 regimen or procedure; and
- 17 10. That the patient has a private right of action to sue the qualified
18 physician under the laws of Kentucky if the patient feels coerced or
19 misled prior to obtaining an abortion;
- 20 (l) A qualified physician's declaration that states that the qualified physician has
21 explained the abortion-inducing drug or drugs to be provided, has provided all
22 of the information required in paragraph (k) of this subsection, and has
23 answered all of the woman's questions, shall be signed by the qualified
24 physician; and
- 25 (m) If prescribing for the purpose of inducing an abortion, a qualified physician
26 shall include the following on the prescription for an abortion-inducing drug:
27 "For The Purpose of Abortion Inducement".

1 →Section 12. KRS 311.780 is amended to read as follows:

2 **(1)** No abortion shall be performed or prescribed knowingly after the unborn child may
3 reasonably be expected to have reached viability, except when:

4 **(a)** Necessary to preserve the life or health of the woman; **or**

5 **(b)** ***There is a fetal anomaly or the fetus is incompatible with sustained life***
6 ***outside the womb.***

7 **(2)** In those instances where an abortion is performed under this section, the person
8 performing the abortion shall take all reasonable steps in keeping with reasonable
9 medical practices to preserve the life and health of the child, including but not
10 limited to KRS 311.760(2), **except when the abortion is performed under**
11 **subsection (1)(b) of this section.**

12 →Section 13. KRS 311.781 is amended to read as follows:

13 As used in KRS 311.781 to 311.786:

14 (1) "Fertilization" means the fusion of a human spermatozoon with a human ovum;

15 (2) "Gestational age" has the same meaning as in KRS 311.7701;

16 (3) **"Good-faith medical judgment" means a medical judgment that would be made**
17 **by a reasonably prudent physician, knowledgeable about the case and the**
18 **treatment possibilities with respect to the medical conditions involved;**

19 **(4) "Lethal fetal anomaly" has the same meaning as in Section 1 of this Act;**

20 **(5)** "Medical emergency" means a condition that in the physician's **good-**
21 **faith**~~reasonable~~ medical judgment, based upon the facts known to the physician at
22 that time, so complicates the woman's pregnancy as to necessitate the immediate
23 performance or inducement of an abortion in order to prevent the death of the
24 pregnant woman or to avoid a serious risk of the substantial and irreversible
25 impairment of a major bodily function of the pregnant woman that delay in the
26 performance or inducement of the abortion would create;

27 **(6)**~~(4)~~ "Pain-capable unborn child" means an unborn child of a probable gestational

1 age of fifteen (15) weeks or more;

2 ~~(7)~~⁽⁵⁾ "Physician" has the same meaning as in KRS 311.720;

3 ~~(8)~~⁽⁶⁾ "Probable gestational age" has the same meaning as in KRS 311.720;

4 ~~[(7) "Reasonable medical judgment" means a medical judgment that would be made by~~
 5 ~~a reasonably prudent physician, knowledgeable about the case and the treatment~~
 6 ~~possibilities with respect to the medical conditions involved;]~~

7 ~~(9)~~⁽⁸⁾ "Serious risk of the substantial and irreversible impairment of a major bodily
 8 function" means any medically diagnosed condition that so complicates the
 9 pregnancy of the woman as to directly or indirectly cause the substantial and
 10 irreversible impairment of a major bodily function. A medically diagnosed
 11 condition that constitutes a "serious risk of the substantial and irreversible
 12 impairment of a major bodily function" includes pre-eclampsia, inevitable abortion,
 13 and premature rupture of the membranes, but does not include a condition related to
 14 the woman's mental health;~~and]~~

15 ~~(10)~~⁽⁹⁾ "Unborn child" means an individual organism of the species homo sapiens
 16 from fertilization until live birth; **and**

17 **(11) "Viability" has the same meaning as in Section 1 of this Act.**

18 ➔Section 14. KRS 311.782 is amended to read as follows:

19 (1) No person shall intentionally perform or induce or intentionally attempt to perform
 20 or induce an abortion on a pregnant woman when the probable gestational age of
 21 the unborn child is fifteen (15) weeks or greater, **except as provided in Sections 2,**
 22 **9, 10, and 12 of this Act and subsection (2) of this section.**

23 (2) ~~There~~^{It} shall be **a rebuttable presumption**~~[an affirmative defense]~~ to a charge
 24 under subsection (1) of this section that the **physician complied with the**
 25 **requirements of this section,**~~[abortion was intentionally performed or induced or~~
 26 ~~intentionally attempted to be performed or induced by a physician]~~ and that the
 27 physician determined, in the physician's **good-faith**~~[reasonable]~~ medical judgment,

1 based on the facts known to the physician at that time, that ~~any~~~~either~~ of the
2 following applied:

3 (a) The probable gestational age of the unborn child was less than fifteen (15)
4 weeks;~~or~~

5 (b) The abortion was necessary to prevent the death of the pregnant woman or to
6 avoid a serious risk of the substantial and irreversible impairment of a major
7 bodily function of the pregnant woman. No abortion shall be necessary if it is
8 based on a claim or diagnosis that the pregnant woman will engage in conduct
9 that would result in her death or in substantial and irreversible impairment of
10 a major bodily function or if it is based on any reason related to her mental
11 health;

12 (c) In the good-faith belief of the physician, the pregnancy was the result of
13 rape under KRS 510.040, 510.050, 510.060, or incest under KRS 530.020,
14 and the fetus had not reached viability; or

15 (d) The abortion was necessary because of a lethal fetal anomaly or the fetus
16 was incompatible with sustained life outside the womb.

17 (3) (a) Except when a medical emergency exists that prevents compliance with KRS
18 311.783, the rebuttable presumption~~affirmative defense~~ set forth in
19 subsection (2)(a) of this section ~~shall~~~~does~~ not apply unless the physician
20 who intentionally performs or induces or intentionally attempts to perform or
21 induce the abortion makes a determination of the probable gestational age of
22 the unborn child as required by KRS 311.783(1) or relied upon such a
23 determination made by another physician and certifies in writing, based on the
24 results of the tests performed, that in the physician's good-faith~~reasonable~~
25 medical judgment the unborn child's probable gestational age is less than
26 fifteen (15) weeks.

27 (b) Except when a medical emergency exists that prevents compliance with one

1 (1) or more of the following conditions, the **rebuttable**
2 **presumption**~~[affirmative defense]~~ set forth in subsection (2)(b) of this section
3 **shall**~~[does]~~ not apply unless the physician who intentionally performs or
4 induces or intentionally attempts to perform or induce the abortion complies
5 with all of the following conditions:

6 1. The physician who intentionally performs or induces or intentionally
7 attempts to perform or induce the abortion certifies in writing that, in the
8 physician's **good-faith**~~[reasonable]~~ medical judgment, based on the facts
9 known to the physician at that time, the abortion is necessary to prevent
10 the death of the pregnant woman or to avoid a serious risk of the
11 substantial and irreversible impairment of a major bodily function of the
12 pregnant woman;

13 2. A different physician not professionally related to the physician
14 described in subparagraph 1. of this paragraph certifies in writing that,
15 in that different physician's **good-faith**~~[reasonable]~~ medical judgment,
16 based on the facts known to that different physician at that time, the
17 abortion is necessary to prevent the death of the pregnant woman or to
18 avoid a serious risk of the substantial and irreversible impairment of a
19 major bodily function of the pregnant woman;

20 3. The physician intentionally performs or induces or intentionally
21 attempts to perform or induce the abortion in a hospital or other health
22 care facility that has appropriate neonatal services for premature infants
23 **unless the abortion is performed in accordance with subsection (2)(c)**
24 **or (d) of this section;**

25 4. The physician who intentionally performs or induces or intentionally
26 attempts to perform or induce the abortion terminates or attempts to
27 terminate the pregnancy in the manner that provides the best opportunity

- 1 for the unborn child to survive, unless that physician determines, in the
 2 physician's **good-faith**~~reasonable~~ medical judgment, based on the facts
 3 known to the physician at that time, that the termination of the
 4 pregnancy in that manner poses a greater risk of death of the pregnant
 5 woman or a greater risk of the substantial and irreversible impairment of
 6 a major bodily function of the pregnant woman than would other
 7 available methods of abortion, **or the termination of the pregnancy is**
 8 **performed in accordance with subsection (2)(c) or (d) of this section;**
- 9 5. The physician certifies in writing the available method or techniques
 10 considered and the reasons for choosing the method or technique
 11 employed; and
- 12 6. The physician who intentionally performs or induces or intentionally
 13 attempts to perform or induce the abortion has arranged for the
 14 attendance in the same room in which the abortion is to be performed or
 15 induced or attempted to be performed or induced at least one (1) other
 16 physician who is to take control of, provide immediate medical care for,
 17 and take all reasonable steps necessary to preserve the life and health of
 18 the unborn child immediately upon the child's complete expulsion or
 19 extraction from the pregnant woman.
- 20 (4) The state Board of Medical Licensure shall revoke a physician's license to practice
 21 medicine in this state if the physician violates or fails to comply with this section.
- 22 (5) Any physician who intentionally performs or induces or intentionally attempts to
 23 perform or induce an abortion on a pregnant woman with actual knowledge that
 24 **none**~~neither~~ of the **rebuttable presumptions**~~[affirmative defenses]~~ set forth in
 25 subsection (2) of this section **apply**~~[applies]~~, or with a heedless indifference as to
 26 whether **any rebuttable presumption**~~[either affirmative defense]~~ applies, is liable in
 27 a civil action for compensatory and punitive damages and reasonable attorney's fees

1 to any person, or the representative of the estate of any person including but not
2 limited to an unborn child, who sustains injury, death, or loss to person or property
3 as the result of the performance or inducement or the attempted performance or
4 inducement of the abortion. In any action under this subsection, the court also may
5 award any injunctive or other equitable relief that the court considers appropriate.

6 (6) A pregnant woman on whom an abortion is intentionally performed or induced or
7 intentionally attempted to be performed or induced in violation of subsection (1) of
8 this section is not guilty of violating subsection (1) of this section or of attempting
9 to commit, conspiring to commit, or complicity in committing a violation of
10 subsection (1) of this section.

11 ➔Section 15. KRS 311.783 is amended to read as follows:

12 (1) Except in a medical emergency that prevents compliance with this section, no
13 physician shall intentionally perform or induce or intentionally attempt to perform
14 or induce an abortion on a pregnant woman unless, prior to the performance or
15 inducement of the abortion or the attempt to perform or induce the abortion, the
16 physician determines, in the physician's good-faith~~reasonable~~ medical judgment,
17 the unborn child's probable gestational age. The physician shall make that
18 determination after making inquiries of the pregnant woman and performing any
19 medical examinations or tests of the pregnant woman the physician considers
20 necessary as a reasonably prudent physician, knowledgeable about the case and
21 medical conditions involved, would consider necessary to determine the unborn
22 child's probable gestational age.

23 (2) Except in a medical emergency that prevents compliance with this section, no
24 physician shall intentionally perform or induce or intentionally attempt to perform
25 or induce an abortion on a pregnant woman after the unborn child reaches the
26 probable gestational age of fifteen (15) weeks without first entering the
27 determination made in subsection (1) of this section and the associated findings of

1 the medical examination and tests in the medical record of the pregnant woman.

2 (3) The state Board of Medical Licensure shall suspend a physician's license to practice
3 medicine in this state for a period of not less than six (6) months if the physician
4 violates this section.

5 (4) The physician shall submit a report on a form provided by the cabinet that includes
6 at a minimum the information required by KRS 213.101 and:

7 (a) The unborn child's probable gestational age determined by the physician; and

8 (b) The results of inquiries of the pregnant woman and any medical examinations
9 or tests performed.

10 ➔Section 16. KRS 311.787 is amended to read as follows:

11 (1) As used in this section:

12 (a) "Bodily dismemberment, crushing, or human vivisection" means a procedure
13 in which a person, with the purpose of causing the death of an unborn child,
14 dismembers the living unborn child and extracts portions, pieces, or limbs of
15 the unborn child from the uterus through the use of clamps, grasping forceps,
16 tongs, scissors, or a similar instrument that, through the convergence of two
17 (2) rigid levers, slices, crushes, or grasps, or performs any combination of
18 those actions on, any portion, piece, or limb of the unborn child's body to cut
19 or separate the portion, piece, or limb from the body. The term includes a
20 procedure that is used to cause the death of an unborn child and in which
21 suction is subsequently used to extract portions, pieces, or limbs of the unborn
22 child after the unborn child's death;

23 (b) **"Lethal fetal anomaly" has the same meaning as in Section 1 of this Act;**

24 (c) "Medical emergency" has the same meaning as in KRS 311.720;

25 (d)~~(c)}~~ "Probable gestational age" has the same meaning as in KRS 311.720;~~f~~
26 ~~and~~

27 (e)~~(d)}~~ "Unborn child" has the same meaning as in KRS 311.781; **and**

1 (f) "Viability" has the same meaning as in Section 1 of this Act.

2 (2) No person shall intentionally perform or induce or attempt to perform or induce an
3 abortion on a pregnant woman:

4 (a) That will result in the bodily dismemberment, crushing, or human vivisection
5 of the unborn child; and

6 (b) When the probable gestational age of the unborn child is eleven (11) weeks or
7 greater;

8 except in the case of a medical emergency; or when, in the good-faith belief of the
9 physician, a pregnancy is a result of rape under KRS 510.040, 510.050, or
10 510.060, or incest under KRS 530.020, and the fetus has not reached viability; or
11 because of a lethal anomaly or the fetus is incompatible with sustained life
12 outside of the womb as provided in Sections 2, 9, 10, and 12 of this Act.

13 (3) A pregnant woman on whom an abortion is performed or induced or attempted to
14 be performed or induced in violation of subsection (2) of this section is not guilty of
15 violating subsection (2) of this section or of attempting to commit, conspiring to
16 commit, or complicity in committing a violation of subsection (2) of this section.

17 ➔Section 17. KRS 311.800 is amended to read as follows:

18 (1) No publicly owned hospital or other publicly owned health care facility shall
19 perform or permit the performance of abortions, except:

20 (a) To save the life of the pregnant woman or to avoid a serious risk of the
21 substantial and irreversible impairment of a major bodily function of the
22 pregnant woman;

23 (b) To remove a dead fetus, ectopic pregnancy, or incomplete miscarriage;

24 (c) Because of a lethal fetal anomaly or the fetus is incompatible with sustained
25 life outside the womb; or

26 (d) If, in the good-faith belief of the physician, the pregnancy is the result of
27 rape under KRS 510.040, 510.050, or 510.060, or incest under KRS 530.020,

1 *and the fetus has not reached viability.*

2 (2) In the event that a publicly owned hospital or publicly owned health facility is
3 performing or about to perform an abortion in violation of subsection (1) of this
4 section, and law enforcement authorities in the county have failed or refused to take
5 action to stop such a practice, any resident of the county in which the hospital or
6 health facility is located, may apply to the Circuit Court of that county for an
7 injunction or other court process to require compliance with subsection (1) of this
8 section.

9 (3) No private hospital or private health care facility shall be required to, or held liable
10 for refusal to, perform or permit the performance of abortion contrary to its stated
11 ethical policy.

12 (4) No physician, nurse staff member, or employee of a public or private hospital or
13 employee of a public or private health care facility, who shall state in writing to
14 such hospital or health care facility his or her objection to performing, participating
15 in, or cooperating in, abortion on moral, religious, or professional grounds, be
16 required to, or held liable for refusal to, perform, participate in, or cooperate in such
17 abortion.

18 (5) It shall be an unlawful discriminatory practice for the following:

19 (a) Any person to impose penalties or take disciplinary action against, or to deny
20 or limit public funds, licenses, certifications, degrees, or other approvals or
21 documents of qualification to, any hospital or other health care facility due to
22 the refusal of such hospital or health care facility to perform or permit to be
23 performed, participate in, or cooperate in, abortion by reason of objection
24 thereto on moral, religious, or professional grounds, or because of any
25 statement or other manifestation of attitude by such hospital or health care
26 facility with respect to abortion; ~~or,~~

27 (b) Any person to impose penalties or take disciplinary action against, or to deny

1 or limit public funds, licenses, certifications, degrees, or other approvals or
2 documents of qualification to any physician, nurse, or staff member or
3 employee of any hospital or health care facility, due to the willingness or
4 refusal of such physician, nurse or staff member or employee to perform or
5 participate in abortion by reason of objection thereto on moral, religious, or
6 professional grounds, or because of any statement or other manifestation of
7 attitude by such physician, nurse or staff member or employee with respect to
8 abortion; or ~~or~~

- 9 (c) Any public or private agency, institution or person, including a medical,
10 nursing, or other school, to deny admission to, impose any burdens in terms of
11 conditions of employment upon, or otherwise discriminate against any
12 applicant for admission thereto or any physician, nurse, staff member, student,
13 or employee thereof, ***based upon*** ~~on account of~~ the willingness or refusal of
14 such applicant, physician, nurse, staff member, student, or employee to
15 perform or participate in abortion or sterilization by reason of objection
16 thereto on moral, religious or professional grounds, or because of any
17 statement or other manifestation of attitude by such person with respect to
18 abortion or sterilization if that health care facility is not operated exclusively
19 for the purposes of performing abortions or sterilizations.

20 ➔Section 18. KRS 213.101 is amended to read as follows:

- 21 (1) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth,
22 regardless of the length of gestation, shall be reported to the Vital Statistics Branch
23 by the person in charge of the institution within three (3) days after the end of the
24 month in which the abortion occurred. If the abortion was performed outside an
25 institution, the attending physician shall prepare and file the report within three (3)
26 days after the end of the month in which the abortion occurred.
- 27 (2) The report shall include all the information the physician is required to certify in

- 1 writing or determine under KRS 311.731, 311.732, 311.7704, 311.7705, 311.7706,
2 311.7707, 311.7735, 311.7736, 311.774, 311.782, and 311.783, and at a minimum:
- 3 (a) The full name and address of the physician who performed the abortion or
4 provided the abortion-inducing drug as defined in KRS 311.7731;
 - 5 (b) The address at which the abortion was performed or the address at which the
6 abortion-inducing drug was provided by a qualified physician, or the method
7 of obtaining the abortion-inducing drug if not provided by a qualified
8 physician, including mail order, internet order, or by a telehealth provider, in
9 which case identifying information for the pharmacy, website~~[Web site]~~
10 address, or the telemedicine provider shall be included;
 - 11 (c) The names, serial numbers, National Drug Codes, lot numbers, and expiration
12 dates of the specific abortion-inducing drugs that were provided to the
13 pregnant patient and the dates each were provided;
 - 14 (d) The full name and address of the referring physician, agency, or service, if
15 any;
 - 16 (e) The pregnant patient's city or town, county, state, country of residence, and
17 zip code;
 - 18 (f) The pregnant patient's age, race, and ethnicity;
 - 19 (g) The age or approximate age of the father, if known;
 - 20 (h) The total number and dates of each previous pregnancy, live birth, and
21 abortion of the pregnant patient;
 - 22 (i) The probable gestational and post-fertilization ages of the unborn child, the
23 methods used to confirm the gestational and post-fertilization ages, and the
24 date determined;
 - 25 (j) A list of any pre-existing medical conditions of the pregnant patient that may
26 complicate her pregnancy, if any, including hemorrhage, infection, uterine
27 perforation, cervical laceration, retained products, or any other condition;

- 1 (k) Whether the fetus was delivered alive and the length of time the fetus
2 survived;
- 3 (l) Whether the fetus was viable and, if viable, the medical reason for
4 termination;
- 5 (m) Whether a pathological examination of the fetus was performed;
- 6 (n) Whether the pregnant patient returned for a follow-up examination, the date
7 and results of any such follow-up examination, and what reasonable efforts
8 were made by the qualified physician to encourage the patient to reschedule a
9 follow-up examination if the appointment was missed;
- 10 (o) Whether the woman suffered any complications or adverse events as defined
11 in KRS 311.7731 and what specific complications or adverse events occurred,
12 and any follow-up treatment provided as required by KRS 311.774;
- 13 (p) Whether the pregnant patient was Rh negative and, if so, was provided with
14 an Rh negative information fact sheet and treated with the prevailing medical
15 standard of care to prevent harmful fetal or child outcomes or Rh
16 incompatibility in future pregnancies;
- 17 (q) The amount billed to cover the treatment for specific complications or adverse
18 events, including whether the treatment was billed to Medicaid, private
19 insurance, private pay, or other method. This should include ICD-10 codes
20 reported and charges for any physician, hospital, emergency room,
21 prescription or other drugs, laboratory tests, and any other costs for treatment
22 rendered;
- 23 (r) The reason for the abortion, if known, including abuse, coercion, harassment,
24 ~~or~~ trafficking, **rape, or incest**; and
- 25 (s) Whether the pregnant patient was tested for sexually transmitted diseases
26 when providing the informed consent required in KRS 311.725 and 311.7735
27 twenty-four (24) hours before the abortion procedure or tested at the time of

1 the abortion procedure, and if the pregnant patient tested positive, was treated
2 or referred for treatment and follow-up care.

3 (3) The report shall not contain:

4 (a) The name of the pregnant patient;

5 (b) Common identifiers such as a Social Security number and motor vehicle
6 operator's license number; and

7 (c) Any other information or identifiers that would make it possible to ascertain
8 the patient's identity.

9 (4) If a person other than the physician described in this subsection makes or maintains
10 a record required by KRS 311.732, 311.7704, 311.7705, 311.7706, or 311.7707 on
11 the physician's behalf or at the physician's direction, that person shall comply with
12 the reporting requirement described in this subsection as if the person were the
13 physician.

14 (5) Each prescription issued for an abortion-inducing drug as defined in KRS 311.7731
15 for which the primary indication is the induction of abortion as defined in KRS
16 213.011 shall be reported to the Vital Statistics Branch within three (3) days after
17 the end of the month in which the prescription was issued as required by KRS
18 311.774, but the report shall not include information which will identify the woman
19 involved or anyone who may be picking up the prescription on behalf of the
20 woman.

21 (6) 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 (7) By September 30 of each year, the Vital Statistics Branch shall issue a public report
24 that provides statistics on all data collected, including the type of abortion
25 procedure used, for the previous calendar year compiled from all of the reports
26 covering that calendar year submitted to the cabinet in accordance with this section
27 for each of the items listed in this section. Each annual report shall also provide

1 statistics for all previous calendar years in which this section was in effect, adjusted
2 to reflect any additional information from late or corrected reports. The Vital
3 Statistics Branch shall ensure that none of the information included in the report
4 could reasonably lead to the identification of any pregnant woman upon whom an
5 abortion was performed or attempted. Each annual report shall be made available
6 on the cabinet's website~~[Web site]~~.

7 (8) (a) Any person or institution who fails to submit a report by the end of thirty (30)
8 days following the due date set in this section shall be subject to a late fee of
9 five hundred dollars (\$500) for each additional thirty (30) day period or
10 portion of a thirty (30) day period the 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
13 in this section, may in a civil action brought by the Vital Statistics Branch be
14 directed by a court of competent jurisdiction to submit a complete report
15 within a time period stated by court order or be subject to contempt of court.

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

19 (9) Intentional falsification of any report required under this section is a Class A
20 misdemeanor.

21 (10) The Vital Statistics Branch shall promulgate administrative regulations in
22 accordance with KRS Chapter 13A to assist in compliance with this section.

23 (11) (a) The Office of the Inspector General, Cabinet for Health and Family Services,
24 shall annually audit the required reporting of abortion-related information to
25 the Vital Statistics Branch in this section and KRS 213.172, and in so doing,
26 shall function as a health oversight agency of the Commonwealth for this
27 specific purpose.

- 1 (b) The Office of the Inspector General shall ensure that none of the information
2 included in the audit report could reasonably lead to the identification of any
3 pregnant woman upon whom an abortion was performed or attempted.
- 4 (c) If any personally identifiable information is viewed or recorded by the Office
5 of the Inspector General in conducting an audit authorized by this subsection,
6 the information held by the Inspector General shall not be subject to the
7 Kentucky Open Records Act, shall be confidential, and shall only be released
8 upon court order.
- 9 (d) The Inspector General shall submit a written report to the General Assembly
10 and the Attorney General by October 1 of each year. The reports shall include
11 findings from:
- 12 1. The audit required in this subsection, including any identified reporting
13 deficiencies; and
 - 14 2. All abortion facility inspections, including any violations of KRS
15 216B.0431 and 216B.0435.
- 16 ➔Section 19. KRS 216B.400 is amended to read as follows:
- 17 (1) Where a person has been determined to be in need of emergency care by any person
18 with admitting authority, no such person shall be denied admission by reason only
19 of his or her inability to pay for services to be rendered by the hospital.
 - 20 (2) Every hospital of this state which offers emergency services shall provide that a
21 physician, a sexual assault nurse examiner, who shall be a registered nurse licensed
22 in the Commonwealth and credentialed by the Kentucky Board of Nursing as
23 provided under KRS 314.142, or another qualified medical professional, as defined
24 by administrative regulation promulgated by the Justice and Public Safety Cabinet
25 in consultation with the Sexual Assault Response Team Advisory Committee as
26 defined in KRS 403.707, is available on call twenty-four (24) hours each day for the
27 examinations of persons seeking treatment as victims of sexual offenses as defined

1 by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,
2 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.

3 (3) An examination provided in accordance with this section of a victim of a sexual
4 offense may be performed in a sexual assault examination facility as defined in
5 KRS 216B.015. An examination under this section shall apply only to an
6 examination of a victim.

7 (4) The physician, sexual assault nurse examiner, or other qualified medical
8 professional, acting under a statewide medical forensic protocol which shall be
9 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
10 Assault Response Team Advisory Committee as defined in KRS 403.707, and
11 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
12 13A shall, upon the request of any peace officer or prosecuting attorney, and with
13 the consent of the victim, or upon the request of the victim, examine such person
14 for the purposes of providing basic medical care relating to the incident and
15 gathering samples that may be used as physical evidence. This examination shall
16 include but not be limited to:

17 (a) Basic treatment and sample gathering services; and

18 (b) Laboratory tests, as appropriate.

19 (5) Each victim shall be informed of available services for treatment of sexually
20 transmitted infections, pregnancy, and other medical and psychiatric problems.
21 Pregnancy counseling shall not include abortion counseling or referral information,
22 **unless it is reasonably believed the sexual assault is rape under KRS 510.040,**
23 **510.050, or 510.060, or incest under KRS 530.020.**

24 (6) Each victim shall be informed of available crisis intervention or other mental health
25 services provided by regional rape crisis centers providing services to victims of
26 sexual assault.

27 (7) Notwithstanding any other provision of law, a minor may consent to examination

1 under this section. This consent is not subject to disaffirmance because of minority,
2 and consent of the parents or guardians of the minor is not required for the
3 examination.

4 (8) (a) The examinations provided in accordance with this section shall be paid for
5 by the Crime Victims Compensation Board at a rate to be determined by the
6 administrative regulation promulgated by the board in accordance with KRS
7 Chapter 13A after consultation with the Sexual Assault Response Team
8 Advisory Committee as defined in KRS 403.707.

9 (b) Upon receipt of a completed claim form supplied by the board and an
10 itemized billing for a forensic sexual assault examination or related services
11 that are within the scope of practice of the respective provider and were
12 performed no more than twelve (12) months prior to submission of the form,
13 the board shall reimburse the hospital or sexual assault examination facility,
14 pharmacist, health department, physician, sexual assault nurse examiner, or
15 other qualified medical professional as provided in administrative regulations
16 promulgated by the board in accordance with~~[pursuant to]~~ KRS Chapter 13A.
17 Reimbursement shall be made to an out-of-state nurse who is credentialed in
18 the other state to provide sexual assault examinations, an out-of-state hospital,
19 or an out-of-state physician if the sexual assault occurred in Kentucky.

20 (c) Independent investigation by the Crime Victims Compensation Board shall
21 not be required for payment of claims under this section; however, the board
22 may require additional documentation or proof that the forensic medical
23 examination was performed.

24 (9) No charge shall be made to the victim for sexual assault examinations by the
25 hospital, the sexual assault examination facility, the physician, the pharmacist, the
26 health department, the sexual assault nurse examiner, other qualified medical
27 professional, the victim's insurance carrier, or the Commonwealth.

- 1 (10) (a) Each victim shall have the right to determine whether a report or other
2 notification shall be made to law enforcement, except where reporting of
3 abuse and neglect of a child or a vulnerable adult is required, as set forth in
4 KRS 209.030 and 620.030. No victim shall be denied an examination,
5 abortion counseling, or referral information as may be applicable under
6 subsection (5) of this section because the victim chooses not to file a police
7 report, cooperate with law enforcement, or otherwise participate in the
8 criminal justice system.
- 9 (b) If the victim chooses to report to law enforcement, the hospital shall notify
10 law enforcement within twenty-four (24) hours.
- 11 (c) 1. All samples collected during an exam where the victim has chosen not
12 to immediately report to law enforcement shall be stored, released, and
13 destroyed, if appropriate, in accordance with an administrative
14 regulation promulgated in accordance with KRS Chapter 13A by the
15 Justice and Public Safety Cabinet in consultation with the Sexual
16 Assault Response Team Advisory Committee as defined in KRS
17 403.707.
- 18 2. Facilities collecting samples pursuant to this section may provide the
19 required secure storage, sample destruction, and related activities, or
20 may enter into agreements with other agencies qualified to do so,
21 pursuant to administrative regulation.
- 22 3. All samples collected pursuant to this section shall be stored for at least
23 one (1) year from the date of collection in accordance with the
24 administrative regulation promulgated pursuant to this subsection.
- 25 4. Notwithstanding KRS 524.140, samples collected during exams where
26 the victim chose not to report immediately or file a report within one (1)
27 year after collection may be destroyed as set forth in accordance with

1 the administrative regulation promulgated pursuant to this subsection.
2 The victim shall be informed of this process at the time of the
3 examination. No hospital, sexual assault examination facility, or
4 designated storage facility shall be liable for destruction of samples after
5 the required storage period has expired.

6 ➔Section 20. KRS 311.715 is amended to read as follows:

- 7 (1) As used in this section, "public agency funds" means any money, regardless of the
8 original source of the money, of a public agency.
- 9 (2) Public agency funds shall not be used for the purpose of obtaining an abortion or
10 paying for the performance of an abortion, except when, in the good-faith belief of
11 the physician, the pregnancy is the result of rape under KRS 510.040, 510.050, or
12 510.060, or incest under KRS 530.020, and the fetus has not reached viability as
13 defined under Section 1 of this Act. Public medical facilities may be used for the
14 purpose of conducting research into or the performance of in-vitro fertilization as
15 long as such procedures do not result in the intentional destruction of a human
16 embryo.
- 17 (3) Public agency funds shall not be directly or indirectly used, granted, paid, or
18 distributed to any entity, organization, or individual that performs, induces, refers
19 for, or counsels in favor of abortions. This subsection shall not apply to funding
20 available through KRS 205.510 to 205.560 to the minimum extent necessary to
21 comply with federal conditions for the state's participation in the program
22 established by KRS 205.510 to 205.560 or to funding that is used to provide
23 abstinence education in schools.
- 24 (4) (a) Public agency funds shall not be directly or indirectly used, granted, paid, or
25 distributed to any nonpublic entity or organization described in paragraph
26 (b)3. of this subsection. This paragraph shall not apply to funding available
27 through KRS 205.510 to 205.560 to the minimum extent necessary to comply

1 with federal conditions for the state's participation in the program established
2 by KRS 205.510 to 205.560 or to funding that is used to provide abstinence
3 education in schools.

4 (b) Notwithstanding any other state law to the contrary, all federal family
5 planning funds shall be awarded to eligible individuals, organizations, or
6 entities applying to be family planning contractors in the following order of
7 descending priority:

- 8 1. Public agencies that directly provide family planning services, including
9 state, county, and local community health clinics and federally qualified
10 health centers;
- 11 2. Nonpublic entities that directly provide basic health services, as
12 described in 42 U.S.C. sec. 254b(b)(1)(A), including family planning
13 services; and
- 14 3. Nonpublic entities that directly provide only family planning services
15 but do not provide all basic health services as described in 42 U.S.C.
16 sec. 254b(b)(1)(A).

17 (c) This subsection shall be effective upon repeal of federal regulations
18 prohibiting states from prioritizing recipients of federal Public Health Service
19 Act, Title X Family Planning Program funds.

20 (5) Nothing in this section shall be deemed to deprive a woman of all appropriate
21 medical care necessary to prevent her physical death.

22 (6) Nothing in this section shall be construed to allow public funds to pay for in-vitro
23 fertilization procedures performed on any individual patient.

24 ➔Section 21. This Act may be cited as Hadley's Law.