

1 AN ACT relating to abortion.

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 pregnancy" means a fetus or embryo which is developing outside of the**
19 **uterus;**

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

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

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

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

1 **(10) "Incomplete miscarriage" means the retention of products of conception in the**
2 **uterus after the diagnosis of an early pregnancy loss;**

3 **(11) "Lethal fetal anomaly" means a fetal condition diagnosed before birth from**
4 **which an unborn child would die at birth or shortly thereafter, or be stillborn;**

5 **(12)**~~(9)~~ "Medical emergency" means any condition which, on the basis of the
6 physician's good-faith clinical judgment, so complicates the medical condition of a
7 pregnant female as to necessitate the immediate abortion of her pregnancy to avert
8 her death or for which a delay will create serious risk of substantial and irreversible
9 impairment of a major bodily function;

10 **(13)**~~(10)~~ "Medical necessity" means a medical condition of a pregnant woman that, in
11 the reasonable judgment of the physician who is attending the woman, so
12 complicates the pregnancy that it necessitates the immediate performance or
13 inducement of an abortion;

14 **(14)**~~(11)~~ "Partial-birth abortion" means an abortion in which the physician performing
15 the abortion partially vaginally delivers a living fetus before killing the fetus and
16 completing the delivery;

17 **(15)**~~(12)~~ "Physician" means any person licensed to practice medicine in the
18 Commonwealth or osteopathy pursuant to this chapter;

19 **(16)**~~(13)~~ "Probable gestational age of the embryo or fetus" means the gestational age
20 that, in the judgment of a physician, is, with reasonable probability, the gestational
21 age of the embryo or fetus at the time that the abortion is planned to be performed;

22 **(17)**~~(14)~~ "Public agency" means the Commonwealth of Kentucky; any agency,
23 department, entity, or instrumentality thereof; any city, county, agency, department,
24 entity, or instrumentality thereof; or any other political subdivision of the
25 Commonwealth, agency, department, entity, or instrumentality thereof;

26 **(18)**~~(15)~~ "Vaginally delivers a living fetus before killing the fetus" means deliberately
27 and intentionally delivers into the vagina a living fetus, or a substantial portion

1 thereof, for the purpose of performing a procedure the physician knows will kill the
2 fetus, and kills the fetus; and

3 **(19)**~~(16)~~ "Viability" means that stage of human development when the life of the
4 unborn child may be continued by natural or life-supportive systems outside the
5 womb of the mother.

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

7 (1) No abortion shall be performed except by a physician~~[after either]~~:

8 (a) **After the physician**~~[He]~~ determines that, in his **or her** best clinical judgment,
9 the abortion is necessary;

10 **1. To preserve the life of the mother or to avoid a serious risk of the**
11 **substantial and irreversible impairment of a major bodily function of**
12 **the pregnant woman;**

13 **2. To remove a dead unborn fetus;**

14 **3. To remove an ectopic pregnancy or incomplete miscarriage; or**

15 **4. Because of a lethal fetal anomaly;**

16 (b) **After the physician**~~[He]~~ receives what he **or she** reasonably believes to be a
17 written statement signed by another physician, hereinafter called the
18 "referring physician," certifying that in the referring physician's best clinical
19 judgment the abortion is necessary, and, in addition, he **or she** receives a copy
20 of the report form required by KRS 213.101; **or**

21 **(c) If, in the physician's best clinical judgment, the pregnancy is the result of**
22 **rape under KRS 510.040, 510.050, or 510.060, or incest under KRS**
23 **530.020(2)(b) or (c) and the abortion is performed no later than six (6)**
24 **weeks after the first day of the woman's last menstrual period.**

25 (2) No abortion shall be performed except in compliance with regulations which the
26 cabinet shall issue to ensure that:

27 (a) Before the abortion is performed, the pregnant woman shall have a private

1 medical consultation either with the physician who is to perform the abortion
2 or with the referring physician in a place, at a time, and of a duration
3 reasonably sufficient to enable the physician to determine whether, based
4 upon the physician's~~his~~ best clinical judgment, the abortion is necessary;

5 (b) The physician who is to perform the abortion or the referring physician will
6 describe the basis for his or her best clinical judgment that the abortion is
7 necessary on a form prescribed by the cabinet as required by KRS 213.101;
8 and

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

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

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

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

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

27 1. The nature and purpose of the particular abortion procedure or treatment

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

1 in part, because of:

2 a. The sex of the unborn child;

3 b. The race, color, or national origin of the unborn child; or

4 c. The diagnosis, or potential diagnosis, of Down syndrome or any
5 other disability, except a lethal fetal anomaly;

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; or

26 (b) If the fetus the pregnant woman is carrying has a lethal fetal anomaly.

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

- 1 (1) For purposes of this section the following definitions shall apply:
- 2 (a) "Minor" means any person under the age of eighteen (18);
- 3 (b) "Emancipated minor" means any minor who is or has been married or has by
- 4 court order or otherwise been freed from the care, custody, and control of her
- 5 parents; and
- 6 (c) "Abortion" means the use of any instrument, medicine, drug, or any other
- 7 substance or device with intent to terminate the pregnancy of a woman known
- 8 to be pregnant~~[with intent]~~ other than to increase the probability of a live
- 9 birth, to preserve the life or health of the child after live birth,~~[or]~~ to remove a
- 10 dead fetus, **or as provided in subsection (4) of this section.**
- 11 (2) No person shall perform an abortion upon a minor unless:
- 12 (a) The attending physician has secured the informed written consent of the
- 13 minor and one (1) parent or legal guardian with joint or physical custody and
- 14 the consenting parent or legal guardian of the minor has made a reasonable
- 15 attempt to notify any other parent with joint or physical custody at least forty-
- 16 eight (48) hours prior to providing the informed written consent.
- 17 1. Notice shall not be required to be provided to any parent who has:
- 18 a. Previously been enjoined by a domestic violence order or
- 19 interpersonal protective order, regardless of whether or not the
- 20 person to be protected by the order was the minor; or
- 21 b. Been convicted of, or entered into a diversion program for, a
- 22 criminal offense against a victim who is a minor as defined in
- 23 KRS 17.500 or for a violent or sexual criminal offense under KRS
- 24 Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531.
- 25 2. The informed written consent shall include:
- 26 a. A copy of the minor's government-issued identification, a copy of
- 27 the consenting parent's or legal guardian's government-issued

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

1 (c) The minor elects to petition any Circuit or District Court of the
2 Commonwealth pursuant to subsection (3) of this section and obtain an order
3 pursuant to subsection (4) of this section granting consent to the abortion and
4 the attending physician has received the informed written consent of the
5 minor.

6 (3) Every minor shall have the right to petition any Circuit or District Court of the
7 Commonwealth for an order granting the right to self-consent to an abortion
8 pursuant to the following procedures:

9 (a) The minor or her next friend may prepare and file a petition setting forth the
10 request of the minor for an order of consent to an abortion;

11 (b) The court shall ensure that the minor prepares or her next friend is given
12 assistance in preparing and filing the petition and shall ensure that the minor's
13 identity is kept anonymous;

14 (c) The minor may participate in proceedings in the court on her own behalf or
15 through her next friend and the court shall appoint a guardian ad litem for her.
16 The court shall advise her that she has a right to court-appointed counsel and
17 shall provide her with such counsel upon her request;

18 (d) All proceedings under this section shall be anonymous and shall be given
19 preference over other matters to ensure that the court may reach a decision
20 promptly, but in no case shall the court fail to rule within seventy-two (72)
21 hours of the time of application, provided that the seventy-two (72) hour
22 limitation may be extended at the request of the minor; and

23 (e) The court shall hold a hearing on the merits of the petition before reaching a
24 decision. The court shall hear evidence at the hearing relating to:

25 1. The minor's:

26 a. Age;

27 b. Emotional development and stability;

- 1 c. Maturity;
- 2 d. Intellect;
- 3 e. Credibility and demeanor as a witness;
- 4 f. Ability to accept responsibility;
- 5 g. Ability to assess both the current and future life-impacting
- 6 consequences of, and alternatives to, the abortion; and
- 7 h. Ability to understand and explain the medical risks of the abortion
- 8 and to apply that understanding to her decision; and
- 9 2. Whether there may be any undue influence by another on the minor's
- 10 decision to have an abortion.
- 11 (4) (a) If the court finds by:
- 12 1. Clear and convincing evidence that the minor is sufficiently mature to
- 13 decide whether to have an abortion;
- 14 2. Clear and convincing evidence that the requirements of this section are
- 15 not in the best interest of the minor; or
- 16 3. A preponderance of the evidence that the minor is:
- 17 a. The victim of child abuse or sexual abuse inflicted by one (1) or
- 18 both of her parents or her legal guardian;
- 19 b. *Pregnant with a fetus that has a lethal fetal anomaly;*
- 20 c. *Seeking the abortion to remove a dead fetus, ectopic pregnancy,*
- 21 *or incomplete miscarriage; or*
- 22 d. *Pregnant as a result of rape under KRS 510.040, 510.050, or*
- 23 *510.060, or incest under KRS 530.020(2)(b) or (c) and the*
- 24 *abortion is performed no later than six (6) weeks after the first*
- 25 *day of the woman's last menstrual period;*
- 26 the court shall enter a written order, making specific factual findings and legal
- 27 conclusions supporting its decision to grant the petition for an abortion.

- 1 (b) If the court does not make any of the findings specified in paragraph (a) of
2 this subsection, the court shall deny the petition.
- 3 (c) As used in this subsection, "best interest of the minor" shall not include
4 financial best interest, financial considerations, or the potential financial
5 impact on the minor or the minor's family if the minor does not have an
6 abortion.
- 7 (5) Any minor shall have the right of anonymous and expedited appeal to the Court of
8 Appeals, and that court shall give precedence over other pending matters.
- 9 (6) All hearings under this section, including appeals, shall remain confidential and
10 closed to the public. The hearings shall be held in chambers or in a similarly private
11 and informal setting within the courthouse.
- 12 (7) No fees shall be required of any minor who declares she has no sufficient funds to
13 pursue the procedures provided by this section.
- 14 (8) (a) The Supreme Court is respectfully requested to promulgate any rules ~~and~~
15 ~~regulations~~ it feels are necessary to ensure that proceedings under this section
16 are handled in an expeditious and anonymous manner.
- 17 (b) The Supreme Court, through the Administrative Office of the Courts, shall
18 report by February 1 of each year to the Legislative Research Commission
19 and the cabinet on the number of petitions filed under subsection (3) of this
20 section for the preceding year, and the timing and manner of disposal of the
21 petition by each court. For each approved petition granting an abortion filed
22 under subsection (3) of this section, the specific court finding in subsection
23 (4) of this section shall be included in the report.
- 24 (9) (a) The requirements of subsections (2), (3), and (4) of this section shall not apply
25 when, in the best medical judgment of the physician based on the facts of the
26 case before him or her, a medical emergency exists that so complicates the
27 pregnancy as to require an immediate abortion.

- 1 (b) If a medical emergency exists, the physician shall make reasonable attempts,
2 whenever possible, and without endangering the minor, to contact the parent
3 or legal guardian of the minor, and may proceed, but must document reasons
4 for the medical necessity in the minor's medical records.
- 5 (c) The physician shall inform the parent or legal guardian, in person or by
6 telephone, within twenty-four (24) hours of the abortion, including details of
7 the medical emergency that necessitated the abortion without the parent's or
8 legal guardian's consent. The physician shall also provide this information in
9 writing to the parent or legal guardian at his or her last known address by
10 first-class mail or by certified mail, return receipt requested, with delivery
11 restricted to the parent or legal guardian.
- 12 (10) A report indicating the basis for any medical judgment that warrants failure to
13 obtain consent pursuant to this section shall be filed with the Cabinet for Health and
14 Family Services on a form supplied by the cabinet. This report shall be confidential.
- 15 (11) Failure to obtain consent pursuant to the requirements of this section is prima facie
16 evidence of failure to obtain informed consent and of interference with family
17 relations in appropriate civil actions. The law of this state shall not be construed to
18 preclude the award of exemplary damages in any appropriate civil action relevant to
19 violations of this section. Nothing in this section shall be construed to limit the
20 common-law rights of parents.
- 21 (12) A minor upon whom an abortion is performed is not guilty of violating this section.
- 22 ➔Section 6. KRS 311.760 is amended to read as follows:
- 23 An abortion may be performed in this state only under the following circumstances:
- 24 (1) During the first trimester of pregnancy by a woman upon herself upon the advice of
25 a licensed physician or by a licensed physician.
- 26 (2) After the first trimester of pregnancy, except in cases of emergency to protect the
27 life or health of the pregnant woman, where an abortion is permitted under other

1 provisions of KRS 311.710 to 311.820 or 311.7701 to 311.7711, by a duly licensed
2 physician in a hospital duly licensed by the Kentucky Health Facilities and Health
3 Services Certificate of Need and Licensure Board.

4 ➔Section 7. KRS 311.7701 is amended to read as follows:

5 As used in KRS 311.7701 to 311.7711:

- 6 (1) "Conception" means fertilization;
- 7 (2) "Contraceptive" means a drug, device, or chemical that prevents conception;
- 8 (3) "Fertilization" has the same meaning as in KRS 311.781;
- 9 (4) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic
10 contraction of the fetal heart within the gestational sac;
- 11 (5) "Fetus" means the human offspring developing during pregnancy from the moment
12 of conception and includes the embryonic stage of development;
- 13 (6) "Frivolous conduct" has the same meaning as in KRS 311.784;
- 14 (7) "Gestational age" means the age of an unborn human individual as calculated from
15 the first day of the last menstrual period of a pregnant woman;
- 16 (8) "Gestational sac" means the structure that comprises the extraembryonic
17 membranes that envelop the fetus and that is typically visible by ultrasound after
18 the fourth week of pregnancy;
- 19 (9) "Intrauterine pregnancy" means a pregnancy in which the fetus is attached to the
20 placenta within the uterus of the pregnant woman;
- 21 (10) **"Lethal fetal anomaly" has the same meaning as in Section 1 of this Act;**
- 22 **(11)** "Medical emergency" has the same meaning as in KRS 311.781;
- 23 **(12)**~~[(11)]~~ "Physician" has the same meaning as in KRS 311.720;
- 24 **(13)**~~[(12)]~~ "Pregnancy" means the human female reproductive condition that begins with
25 fertilization, when the woman is carrying the developing human offspring, and that
26 is calculated from the first day of the last menstrual period of the woman;
- 27 **(14)**~~[(13)]~~ "Serious risk of the substantial and irreversible impairment of a major bodily

1 function" has the same meaning as in KRS 311.781;

2 ~~(15)~~~~(14)~~ "Spontaneous miscarriage" means the natural or accidental termination of a
3 pregnancy and the expulsion of the fetus, typically caused by genetic defects in the
4 fetus or physical abnormalities in the pregnant woman;

5 ~~(16)~~~~(15)~~ "Standard medical practice" means the degree of skill, care, and diligence that
6 a physician of the same medical specialty would employ in like circumstances. As
7 applied to the method used to determine the presence of a fetal heartbeat for
8 purposes of KRS 311.7704, "standard medical practice" includes employing the
9 appropriate means of detection depending on the estimated gestational age of the
10 fetus and the condition of the woman and her pregnancy; and

11 ~~(17)~~~~(16)~~ "Unborn child" and "unborn human individual" have the same meaning as
12 "unborn child" has in KRS 311.781.

13 ➔Section 8. KRS 311.7706 is amended to read as follows:

14 (1) Except as provided in subsection (2) of this section, no person shall intentionally
15 perform or induce an abortion on a pregnant woman with the specific intent of
16 causing or abetting the termination of the life of the unborn human individual the
17 pregnant woman is carrying and whose fetal heartbeat has been detected in
18 accordance with KRS 311.7704(1).

19 (2) (a) Subsection (1) of this section shall not apply to a physician who performs a
20 medical procedure that, in the physician's reasonable medical judgment:~~;~~

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

24 2. *Is necessary because of a lethal fetal anomaly; or*

25 3. *Is performed because, in the reasonable medical judgment of the*
26 *physician, the pregnancy is the result of rape under KRS 510.040,*
27 *510.050, 510.060, or incest under KRS 530.020(2)(b) or (c), and the*

1 *abortion is performed no later than six (6) weeks after the first day of*
2 *the woman's last menstrual period.*

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

5 1. Declare that the medical procedure is necessary, to the best of the
6 physician's reasonable medical judgment, to prevent the death of the
7 pregnant woman or to prevent a serious risk of the substantial and
8 irreversible impairment of a major bodily function of the pregnant
9 woman; and

10 2. Specify the pregnant woman's medical condition that the medical
11 procedure is asserted to address and the medical rationale for the
12 physician's conclusion that the medical procedure is necessary to
13 prevent the death of the pregnant woman or to prevent a serious risk of
14 the substantial and irreversible impairment of a major bodily function of
15 the pregnant woman.

16 (c) *A physician who performs a medical procedure as described in paragraph*
17 *(a)2. of this subsection shall, in writing:*

18 1. Declare that the medical procedure is necessary in the reasonable
19 *medical judgment of the physician because of a lethal fetal anomaly;*
20 *and*

21 2. Specify the lethal anomaly.

22 (d) *A physician who performs a medical procedure as described in paragraph*
23 *(a)3. of this subsection shall, in writing, specify the basis for the*
24 *determination that the gestational age of the fetus is six (6) weeks or less*
25 *calculated from the first day of the woman's last menstrual period.*

26 (e) The physician shall place the written document required by paragraph (b), (c),
27 or (d) of this subsection in the pregnant woman's medical records. The

1 physician shall maintain a copy of the document in the physician's own
2 records for at least seven (7) years from the date the document is created.

3 (3) A person is not in violation of subsection (1) of this section if the person acts in
4 accordance with KRS 311.7704(1) and the method used to determine the presence
5 of a fetal heartbeat does not reveal a fetal heartbeat.

6 (4) A pregnant woman on whom an abortion is intentionally performed or induced in
7 violation of subsection (1) of this section is not guilty of violating subsection (1) of
8 this section or of attempting to commit, conspiring to commit, or complicity in
9 committing a violation of subsection (1) of this section. In addition, the pregnant
10 woman is not subject to a civil penalty based on the abortion being performed or
11 induced in violation of subsection (1) of this section.

12 (5) Subsection (1) of this section shall not repeal or limit any other provision of the
13 Kentucky Revised Statutes that restricts or regulates the performance or inducement
14 of an abortion by a particular method or during a particular stage of a pregnancy.

15 ➔Section 9. KRS 311.772 is amended to read as follows:

16 (1) As used in this section:

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

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

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

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

- 1 (a) Any decision of the United States Supreme Court which reverses, in whole or
2 in part, *Roe v. Wade*, 410 U.S. 113 (1973), thereby restoring to the
3 Commonwealth of Kentucky the authority to prohibit abortion; or
- 4 (b) Adoption of an amendment to the United States Constitution which, in whole
5 or in part, restores to the Commonwealth of Kentucky the authority to prohibit
6 abortion.
- 7 (3) (a) **Except as provided in subsections (4) and (6) of this section,** no person may
8 knowingly:
- 9 1. Administer to, prescribe for, procure for, or sell to any pregnant woman
10 any medicine, drug, or other substance with the specific intent of
11 causing or abetting the termination of the life of an unborn human being;
12 or
- 13 2. Use or employ any instrument or procedure upon a pregnant woman
14 with the specific intent of causing or abetting the termination of the life
15 of an unborn human being.
- 16 (b) Any person who violates paragraph (a) of this subsection shall be guilty of a
17 Class D felony.
- 18 (4) The following shall not be a violation of subsection (3) of this section:
- 19 (a) For a licensed physician to perform a medical procedure necessary in **the**
20 reasonable medical judgment **of the physician** to prevent the death or
21 substantial risk of death due to a physical condition, or to prevent the serious,
22 permanent impairment of a life-sustaining organ of a pregnant woman.
23 However, **except in circumstances under paragraph (b) of this subsection,**
24 the physician shall make reasonable medical efforts under the circumstances
25 to preserve both the life of the mother and the life of the unborn human being
26 in a manner consistent with reasonable medical practice;~~[-or]~~
- 27 (b) **For a licensed physician to perform an abortion because of a lethal fetal**

1 *anomaly;*

2 *(c) For a licensed physician to perform an abortion if in the reasonable*
3 *medical judgment of the physician the pregnancy is the result of rape under*
4 *KRS 510.040, 510.050, or 510.060, or incest under KRS 530.020(2)(b) or (c)*
5 *and the abortion is performed no later than six (6) weeks after the first day*
6 *of the woman's last menstrual period; or*

7 *(d)* Medical treatment provided to the mother by a licensed physician which
8 results in the accidental or unintentional injury or death to the unborn human
9 being.

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

13 (6) Nothing in this section may be construed to prohibit the sale, use, prescription, or
14 administration of a contraceptive measure, drug, or chemical, if it is administered
15 prior to the time when a pregnancy could be determined through conventional
16 medical testing and if the contraceptive measure is sold, used, prescribed, or
17 administered in accordance with manufacturer instructions.

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

23 ➔Section 10. KRS 311.780 is amended to read as follows:

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

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

27 *(b) There is a fetal anomaly.*

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

6 ➔Section 11. KRS 311.781 is amended to read as follows:

7 As used in KRS 311.781 to 311.786:

- 8 (1) "Fertilization" means the fusion of a human spermatozoon with a human ovum;
- 9 (2) "Gestational age" has the same meaning as in KRS 311.7701;
- 10 (3) "Medical emergency" means a condition that in the physician's reasonable medical
11 judgment, based upon the facts known to the physician at that time, so complicates
12 the woman's pregnancy as to necessitate the immediate performance or inducement
13 of an abortion in order to prevent the death of the pregnant woman or to avoid a
14 serious risk of the substantial and irreversible impairment of a major bodily
15 function of the pregnant woman that delay in the performance or inducement of the
16 abortion would create;
- 17 (4) "Lethal fetal anomaly" has the same meaning as in Section 1 of this Act;
- 18 (5) "Pain-capable unborn child" means an unborn child of a probable gestational age of
19 fifteen (15) weeks or more;
- 20 ~~(6)~~~~(5)~~ "Physician" has the same meaning as in KRS 311.720;
- 21 ~~(7)~~~~(6)~~ "Probable gestational age" has the same meaning as in KRS 311.720;
- 22 ~~(8)~~~~(7)~~ "Reasonable medical judgment" means a medical judgment that would be
23 made by a reasonably prudent physician, knowledgeable about the case and the
24 treatment possibilities with respect to the medical conditions involved;
- 25 ~~(9)~~~~(8)~~ "Serious risk of the substantial and irreversible impairment of a major bodily
26 function" means any medically diagnosed condition that so complicates the
27 pregnancy of the woman as to directly or indirectly cause the substantial and

1 irreversible impairment of a major bodily function. A medically diagnosed
2 condition that constitutes a "serious risk of the substantial and irreversible
3 impairment of a major bodily function" includes pre-eclampsia, inevitable abortion,
4 and premature rupture of the membranes, but does not include a condition related to
5 the woman's mental health; and

6 ~~(10)~~⁽⁹⁾ "Unborn child" means an individual organism of the species homo sapiens
7 from fertilization until live birth.

8 ➔Section 12. KRS 311.782 is amended to read as follows:

9 (1) No person shall intentionally perform or induce or intentionally attempt to perform
10 or induce an abortion on a pregnant woman when the probable gestational age of
11 the unborn child is fifteen (15) weeks or greater, **except as provided in Sections 2,**
12 **3, 4, 5, 8, 9, and 10 of this Act and subsection (2) of this section.**

13 (2) It shall be an affirmative defense to a charge under subsection (1) of this section
14 that the abortion was intentionally performed or induced or intentionally attempted
15 to be performed or induced by a physician and that the physician determined, in the
16 physician's reasonable medical judgment, based on the facts known to the physician
17 at that time, that ~~any~~^{either} of the following applied:

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

20 (b) The abortion was necessary to prevent the death of the pregnant woman or to
21 avoid a serious risk of the substantial and irreversible impairment of a major
22 bodily function of the pregnant woman. No abortion shall be necessary if it is
23 based on a claim or diagnosis that the pregnant woman will engage in conduct
24 that would result in her death or in substantial and irreversible impairment of
25 a major bodily function or if it is based on any reason related to her mental
26 health; **or**

27 **(c) The abortion was necessary because of a lethal fetal anomaly.**

- 1 (3) (a) Except when a medical emergency exists that prevents compliance with KRS
2 311.783, the affirmative defense set forth in subsection (2)(a) 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 makes a
5 determination of the probable gestational age of the unborn child as required
6 by KRS 311.783(1) or relied upon such a determination made by another
7 physician and certifies in writing, based on the results of the tests performed,
8 that in the physician's reasonable medical judgment the unborn child's
9 probable gestational age is less than fifteen (15) weeks.
- 10 (b) Except when a medical emergency exists that prevents compliance with one
11 (1) or more of the following conditions, the affirmative defense set forth in
12 subsection (2)(b) of this section does not apply unless the physician who
13 intentionally performs or induces or intentionally attempts to perform or
14 induce the abortion complies with all of the following conditions:
- 15 1. The physician who intentionally performs or induces or intentionally
16 attempts to perform or induce the abortion certifies in writing that, in the
17 physician's reasonable medical judgment, based on the facts known to
18 the physician at that time, the abortion is necessary to prevent the death
19 of the pregnant woman or to avoid a serious risk of the substantial and
20 irreversible impairment of a major bodily function of the pregnant
21 woman;
 - 22 2. A different physician not professionally related to the physician
23 described in subparagraph 1. of this paragraph certifies in writing that,
24 in that different physician's reasonable medical judgment, based on the
25 facts known to that different physician at that time, the abortion is
26 necessary to prevent the death of the pregnant woman or to avoid a
27 serious risk of the substantial and irreversible impairment of a major

- 1 bodily function of the pregnant woman;
- 2 3. The physician intentionally performs or induces or intentionally
- 3 attempts to perform or induce the abortion in a hospital or other health
- 4 care facility that has appropriate neonatal services for premature infants
- 5 *unless the abortion is performed under subsection (2)(c) of this*
- 6 *section;*
- 7 4. The physician who intentionally performs or induces or intentionally
- 8 attempts to perform or induce the abortion terminates or attempts to
- 9 terminate the pregnancy in the manner that provides the best opportunity
- 10 for the unborn child to survive, unless that physician determines, in the
- 11 physician's reasonable medical judgment, based on the facts known to
- 12 the physician at that time, that the termination of the pregnancy in that
- 13 manner poses a greater risk of death of the pregnant woman or a greater
- 14 risk of the substantial and irreversible impairment of a major bodily
- 15 function of the pregnant woman than would other available methods of
- 16 abortion, *or the termination of the pregnancy is performed under*
- 17 *subsection (2)(c) of this section;*
- 18 5. The physician certifies in writing the available method or techniques
- 19 considered and the reasons for choosing the method or technique
- 20 employed; and
- 21 6. The physician who intentionally performs or induces or intentionally
- 22 attempts to perform or induce the abortion has arranged for the
- 23 attendance in the same room in which the abortion is to be performed or
- 24 induced or attempted to be performed or induced at least one (1) other
- 25 physician who is to take control of, provide immediate medical care for,
- 26 and take all reasonable steps necessary to preserve the life and health of
- 27 the unborn child immediately upon the child's complete expulsion or

1 extraction from the pregnant woman.

2 (4) The state Board of Medical Licensure shall revoke a physician's license to practice
3 medicine in this state if the physician violates or fails to comply with this section.

4 (5) Any physician who intentionally performs or induces or intentionally attempts to
5 perform or induce an abortion on a pregnant woman with actual knowledge that
6 ~~none~~~~neither~~ of the affirmative defenses set forth in subsection (2) of this section
7 ~~apply~~~~applies~~, or with a heedless indifference as to whether either affirmative
8 defense applies, is liable in a civil action for compensatory and punitive damages
9 and reasonable attorney's fees to any person, or the representative of the estate of
10 any person including but not limited to an unborn child, who sustains injury, death,
11 or loss to person or property as the result of the performance or inducement or the
12 attempted performance or inducement of the abortion. In any action under this
13 subsection, the court also may award any injunctive or other equitable relief that the
14 court considers appropriate.

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

20 ➔Section 13. KRS 311.800 is amended to read as follows:

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

23 (a) To save the life of the pregnant woman *or to avoid a serious risk of the*
24 *substantial and irreversible impairment of a major bodily function of the*
25 *pregnant woman;*

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

27 (c) *Because of a lethal fetal anomaly; or*

1 *(d) If in the physician's best clinical judgment the pregnancy is the result of*
2 *rape under KRS 510.040, 510.050, or 510.060, or incest under KRS*
3 *530.020(2)(b) or (c), and the abortion is performed no later than six (6)*
4 *weeks after the first day of the woman's last menstrual period.*

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

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

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

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

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

1 statement or other manifestation of attitude by such hospital or health care
2 facility with respect to abortion; ~~or,~~

3 (b) Any person to impose penalties or take disciplinary action against, or to deny
4 or limit public funds, licenses, certifications, degrees, or other approvals or
5 documents of qualification to any physician, nurse or staff member or
6 employee of any hospital or health care facility, due to the willingness or
7 refusal of such physician, nurse, or staff member or employee to perform or
8 participate in abortion by reason of objection thereto on moral, religious, or
9 professional grounds, or because of any statement or other manifestation of
10 attitude by such physician, nurse or staff member or employee with respect to
11 abortion; or ~~;~~

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

23 ➔Section 14. KRS 213.101 is amended to read as follows:

24 (1) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth,
25 regardless of the length of gestation, shall be reported to the Vital Statistics Branch
26 by the person in charge of the institution within three (3) days after the end of the
27 month in which the abortion occurred. If the abortion was performed outside an

1 institution, the attending physician shall prepare and file the report within three (3)
2 days after the end of the month in which the abortion occurred.

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

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

- 1 (s) Whether the pregnant patient was tested for sexually transmitted diseases
2 when providing the informed consent required in KRS 311.725 and 311.7735
3 twenty-four (24) hours before the abortion procedure or tested at the time of
4 the abortion procedure, and if the pregnant patient tested positive, was treated
5 or referred for treatment and follow-up care.
- 6 (3) The report shall not contain:
- 7 (a) The name of the pregnant patient;
- 8 (b) Common identifiers such as a Social Security number and motor vehicle
9 operator's license number; and
- 10 (c) Any other information or identifiers that would make it possible to ascertain
11 the patient's identity.
- 12 (4) If a person other than the physician described in this subsection makes or maintains
13 a record required by KRS 311.732, 311.7704, 311.7705, 311.7706, or 311.7707 on
14 the physician's behalf or at the physician's direction, that person shall comply with
15 the reporting requirement described in this subsection as if the person were the
16 physician.
- 17 (5) Each prescription issued for an abortion-inducing drug as defined in KRS 311.7731
18 for which the primary indication is the induction of abortion as defined in KRS
19 213.011 shall be reported to the Vital Statistics Branch within three (3) days after
20 the end of the month in which the prescription was issued as required by KRS
21 311.774, but the report shall not include information which will identify the woman
22 involved or anyone who may be picking up the prescription on behalf of the
23 woman.
- 24 (6) The name of the person completing the report and the reporting institution shall not
25 be subject to disclosure under KRS 61.870 to 61.884.
- 26 (7) By September 30 of each year, the Vital Statistics Branch shall issue a public report
27 that provides statistics on all data collected, including the type of abortion

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

10 (8) (a) Any person or institution who fails to submit a report by the end of thirty (30)
11 days following the due date set in this section shall be subject to a late fee of
12 five hundred dollars (\$500) for each additional thirty (30) day period or
13 portion of a thirty (30) day period the report is overdue.

14 (b) Any person or institution who fails to submit a report, or who has submitted
15 only an incomplete report, more than one (1) year following the due date set
16 in this section, may in a civil action brought by the Vital Statistics Branch be
17 directed by a court of competent jurisdiction to submit a complete report
18 within a time period stated by court order or be subject to contempt of court.

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

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

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

26 (11) (a) The Office of the Inspector General, Cabinet for Health and Family Services,
27 shall annually audit the required reporting of abortion-related information to

1 the Vital Statistics Branch in this section and KRS 213.172, and in so doing,
2 shall function as a health oversight agency of the Commonwealth for this
3 specific purpose.

4 (b) The Office of the Inspector General shall ensure that none of the information
5 included in the audit report could reasonably lead to the identification of any
6 pregnant woman upon whom an abortion was performed or attempted.

7 (c) If any personally identifiable information is viewed or recorded by the Office
8 of the Inspector General in conducting an audit authorized by this subsection,
9 the information held by the Inspector General shall not be subject to the
10 Kentucky Open Records Act, shall be confidential, and shall only be released
11 upon court order.

12 (d) The Inspector General shall submit a written report to the General Assembly
13 and the Attorney General by October 1 of each year. The reports shall include
14 findings from:

- 15 1. The audit required in this subsection, including any identified reporting
16 deficiencies; and
- 17 2. All abortion facility inspections, including any violations of KRS
18 216B.0431 and 216B.0435.