

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

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

25 ~~(9)~~ "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                                    *fetus is incompatible with sustained life outside the womb; or*  
2                                    *d. Requires the abortion to remove a dead fetus, ectopic pregnancy,*  
3                                    *or incomplete miscarriage;*

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

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

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

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

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

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

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

22    (b) The Supreme Court, through the Administrative Office of the Courts, shall  
23    report by February 1 of each year to the Legislative Research Commission  
24    and the cabinet on the number of petitions filed under subsection (3) of this  
25    section for the preceding year, and the timing and manner of disposal of the  
26    petition by each court. For each approved petition granting an abortion filed  
27    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~~<sup>reasonable</sup> 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~~<sup>reasonable</sup> 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)~~<sup>(5)</sup> "Physician" has the same meaning as in KRS 311.720;

3 ~~(8)~~<sup>(6)</sup> "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)~~<sup>(8)</sup> "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)~~<sup>(9)</sup> "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~~<sup>It</sup> 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 ~~reasonable~~ **good-faith** 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 ~~neither~~ **none** of the ~~affirmative defenses~~ **rebuttable presumptions** set forth in  
25 subsection (2) of this section ~~either~~ **apply**, or with a heedless indifference as to  
26 whether ~~either affirmative defense~~ **any rebuttable presumption** 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)~~(e)}~~ "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, the person shall not be denied admission by reason only of  
19 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 the victim for  
14 the purposes of providing basic medical care relating to the incident and gathering  
15 samples that may be used as physical evidence. This examination shall include but  
16 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 and other services  
5 provided to a victim pursuant to subsection (9) of this section shall be paid for  
6 by the Crime Victims Compensation Board at a rate to be determined by the  
7 administrative regulation promulgated by the board in accordance with KRS  
8 Chapter 13A after consultation with the Sexual Assault Response Team  
9 Advisory Committee as defined in KRS 403.707. Payment for services  
10 rendered pursuant to subsection (9) of this section shall be made at a rate not  
11 to exceed the Medicaid reimbursement rate for the same or similar services.

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

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

27 (9) When an examination of a victim of a sexual offense is provided in accordance with

1 this section, no charge shall be made to the victim by the hospital, the sexual assault  
2 examination facility, the physician, the pharmacist, the health department, the  
3 sexual assault nurse examiner, other qualified medical professional, the victim's  
4 insurance carrier, or the Commonwealth for:

- 5 (a) Sexual assault examinations, whether or not the exam is completed;
- 6 (b) Prophylactic medical treatment;
- 7 (c) Strangulation assessments; or
- 8 (d) Other medical tests or services, including triage and ambulance expenses,  
9 related to the incident, exam, or treatment which occur on the same date as the  
10 original exam.

11 (10) (a) Each victim shall have the right to determine whether a report or other  
12 notification shall be made to law enforcement, except where reporting of  
13 abuse and neglect of a child or a vulnerable adult is required, as set forth in  
14 KRS 209.030 and 620.030. No victim shall be denied an examination,  
15 abortion counseling, or referral information as may be applicable under  
16 subsection (5) of this section, or billed in violation of subsection (9) of this  
17 section, because the victim chooses not to file a police report, cooperate with  
18 law enforcement, or otherwise participate in the criminal justice system.

19 (b) If the victim chooses to report to law enforcement, the hospital shall notify  
20 law enforcement within twenty-four (24) hours.

21 (c) 1. All samples collected during an exam where the victim has chosen not  
22 to immediately report to law enforcement shall be stored, released, and  
23 destroyed, if appropriate, as provided in~~[in accordance with]~~ an  
24 administrative regulation promulgated in accordance with KRS Chapter  
25 13A by the Justice and Public Safety Cabinet in consultation with the  
26 Sexual Assault Response Team Advisory Committee as defined in KRS  
27 403.707.

- 1           2. Facilities collecting samples pursuant to this section may provide the  
2           required secure storage, sample destruction, and related activities, or  
3           may enter into agreements with other agencies qualified to do so,  
4           pursuant to administrative regulation.
- 5           3. All samples collected pursuant to this section shall be stored for at least  
6           one (1) year from the date of collection in accordance with the  
7           administrative regulation promulgated pursuant to this subsection.
- 8           4. Notwithstanding KRS 524.140, samples collected during exams where  
9           the victim chose not to report immediately or file a report within one (1)  
10          year after collection may be destroyed as set forth in accordance with  
11          the administrative regulation promulgated pursuant to this subsection.  
12          The victim shall be informed of this process at the time of the  
13          examination. No hospital, sexual assault examination facility, or  
14          designated storage facility shall be liable for destruction of samples after  
15          the required storage period has expired.

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

- 17       (1) As used in this section, "public agency funds" means any money, regardless of the  
18       original source of the money, of a public agency.
- 19       (2) Public agency funds shall not be used for the purpose of obtaining an abortion or  
20       paying for the performance of an abortion, **except when, in the good-faith belief of**  
21       **the physician, the pregnancy is the result of rape under KRS 510.040, 510.050, or**  
22       **510.060, or incest under KRS 530.020, and the fetus has not reached viability as**  
23       **defined under Section 1 of this Act.** Public medical facilities may be used for the  
24       purpose of conducting research into or the performance of in-vitro fertilization as  
25       long as such procedures do not result in the intentional destruction of a human  
26       embryo.
- 27       (3) Public agency funds shall not be directly or indirectly used, granted, paid, or

1 distributed to any entity, organization, or individual that performs, induces, refers  
2 for, or counsels in favor of abortions. This subsection shall not apply to funding  
3 available through KRS 205.510 to 205.560 to the minimum extent necessary to  
4 comply with federal conditions for the state's participation in the program  
5 established by KRS 205.510 to 205.560 or to funding that is used to provide  
6 abstinence education in schools.

7 (4) (a) Public agency funds shall not be directly or indirectly used, granted, paid, or  
8 distributed to any nonpublic entity or organization described in paragraph  
9 (b)3. of this subsection. This paragraph shall not apply to funding available  
10 through KRS 205.510 to 205.560 to the minimum extent necessary to comply  
11 with federal conditions for the state's participation in the program established  
12 by KRS 205.510 to 205.560 or to funding that is used to provide abstinence  
13 education in schools.

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

- 18 1. Public agencies that directly provide family planning services, including  
19 state, county, and local community health clinics and federally qualified  
20 health centers;
- 21 2. Nonpublic entities that directly provide basic health services, as  
22 described in 42 U.S.C. sec. 254b(b)(1)(A), including family planning  
23 services; and
- 24 3. Nonpublic entities that directly provide only family planning services  
25 but do not provide all basic health services as described in 42 U.S.C.  
26 sec. 254b(b)(1)(A).

27 (c) This subsection shall be effective upon repeal of federal regulations

1                   prohibiting states from prioritizing recipients of federal Public Health Service  
2                   Act, Title X Family Planning Program funds.

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

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

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