

1 AN ACT relating to fertility treatment.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Fertility treatment" includes:

- 7 1. Preservation of human oocytes, sperm, or embryos for later
8 reproductive use;
- 9 2. Artificial insemination;
- 10 3. Assisted reproductive technology, including in vitro fertilization and
11 other treatments or procedures in which reproductive genetic material
12 is handled;
- 13 4. Genetic testing of embryos;
- 14 5. Medications prescribed or obtained over-the-counter, as indicated for
15 fertility; and
- 16 6. Gamete donation;

17 (b) "Health care provider" means a health care facility or individual that is:

- 18 1. Engaged or seeking to engage in the delivery of fertility treatment,
19 including through the provision of evidence-based information,
20 counseling, referrals, or items and services that relate to, aid in, or
21 provide fertility treatment; and
- 22 2. Licensed by the Kentucky Board of Medical Licensure under KRS
23 Chapter 311 or the Kentucky Board of Nursing under KRS Chapter
24 314; and

25 (c) "Widely accepted and evidence-based medical standards of care" means
26 any medical services, procedures, or practices that are in accordance with
27 the guidelines of the American Society for Reproductive Medicine.

1 (2) Every individual has a fundamental right to:

2 (a) Receive fertility treatment from a health care provider in accordance with
3 widely accepted and evidence-based medical standards of care;

4 (b) Continue or complete an ongoing fertility treatment previously initiated by a
5 health care provider in accordance with widely accepted and evidence-based
6 medical standards of care;

7 (c) Make decisions and arrangements regarding the donation, testing, use,
8 storage, and disposition of reproductive genetic material; and

9 (d) Establish contractual agreements with a health care provider relating to the
10 health care provider's services in handling, testing, storing, shipping, and
11 disposing of the individual's reproductive genetic material in accordance
12 with widely accepted and evidence-based medical standards of care.

13 (3) The Commonwealth and its political subdivisions shall not:

14 (a) Deny, burden, or infringe upon the rights of an individual under this
15 section unless justified by a compelling state interest achieved by the least
16 restrictive means; or

17 (b) Discriminate in the protection or enforcement of the rights under this
18 section on the basis of sex, disability, race, ethnicity, gender identity, age,
19 marital status, national origin, immigration status, religion, or sexual
20 orientation.

21 (4) A state or local official who is alleged to have violated this section shall be subject
22 to an action in federal or state court for injunctive relief and damages. The action
23 may be brought by any person or entity that may be aggrieved by the official's
24 actions.

25 (5) The enforcement of state laws or administrative regulations regarding medical
26 facilities or health care providers shall not constitute a violation of this section if:

27 (a) The state laws or administrative regulations are in accordance with widely

1 accepted and evidence-based medical standards of care for providing
2 fertility treatment; and
3 **(b) The safety or health objective of the law or administrative regulation cannot**
4 be advanced by a different means that does not prohibit, limit, interfere
5 with, or impede the rights under this section.