

1 AN ACT relating to the use of pharmaceuticals to intentionally terminate life.

2 WHEREAS, the Commonwealth of Kentucky has long recognized a compelling
3 state interest in the protection of human life at all states, born and unborn, and has
4 enacted laws prohibiting assisted suicide, euthanasia, and the intentional termination of
5 the life of an unborn child; and

6 WHEREAS, the laws of this Commonwealth expressly prohibit assisted suicide and
7 the intentional provision of drugs or other means to cause or hasten the death of another
8 person, reflecting this Commonwealth's commitment to preserving life, safeguarding
9 vulnerable populations, and upholding ethical standards in medicine and pharmacy; and

10 WHEREAS, the laws of this Commonwealth further prohibit the termination of the
11 life of an unborn child and strictly regulate abortion-inducing drugs, recognizing the
12 inherent dignity of human life and the significant medical, psychological, and societal
13 harm associated with chemical abortion; and

14 WHEREAS, pharmaceutical agents capable of terminating human life, including
15 abortion-inducing drugs and drugs used for assisted suicide or euthanasia, pose unique
16 risks of coercion, misuse, trafficking, and exploitation, particularly when distributed
17 outside of the traditional physician-patient relationship; and

18 WHEREAS, pregnant women and families, minors, elderly persons, individuals
19 with disabilities, and those experiencing mental or emotional distress are particularly
20 vulnerable to deceptive marketing practices, coercion, and undue influence involving
21 pharmaceuticals intended to terminate life; and

22 WHEREAS, aggressive marketing and distribution of such life-terminating drugs
23 by out-of-state or international entities, often through social media platforms, internet
24 advertising, chat applications, and other digital communications, target residents of the
25 Commonwealth and circumvent the laws and medical safeguards of this Commonwealth;
26 and

27 WHEREAS, "medical aid in dying" or physician-assisted suicide, has been

1 legalized in certain other jurisdictions, including multiple states, the District of Columbia,
2 and Canada, creating a substantial risk that residents of Kentucky may be targeted for
3 unlawful solicitation, importation, or distribution of drugs intended to cause death; and

4 WHEREAS, the General Assembly finds it necessary and proper to protect the
5 citizens of this Commonwealth from the unlawful trafficking, importation, prescription,
6 and promotion of pharmaceuticals intended to terminate human life, and to ensure that
7 the laws of this Commonwealth are not undermined by conduct originating outside the
8 Commonwealth; and

9 WHEREAS, the General Assembly further finds that when a person or entity
10 knowingly directs conduct toward residents of the Commonwealth, and knowingly places
11 pharmaceuticals into the stream of commerce with a substantial likelihood that those
12 pharmaceuticals will be used within the Commonwealth, the resulting harms justify the
13 exercise of the Commonwealth's lawful authority to protect the health, safety, and human
14 life of the citizens of this Commonwealth;

15 NOW, THEREFORE,

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

17 ➔Section 1. KRS 218A.100 is amended to read as follows:

18 The cabinet~~[for Health and Family Services]~~ shall place a substance in Schedule IV if:

19 **(1)** It finds that:

20 ~~**(a)**~~~~**(1)**~~ The substance has a low potential for abuse relative to substances in
21 Schedule III;

22 ~~**(b)**~~~~**(2)**~~ The substance has currently accepted medical use in treatment in the
23 United States; and

24 ~~**(c)**~~~~**(3)**~~ Abuse of the substance may lead to limited physical dependence or
25 psychological dependence relative to the substances in Schedule III; **or**

26 **(2) The substance is an abortion-inducing drug as defined in KRS 311.7731.**

27 ➔Section 2. KRS 218A.1413 is amended to read as follows:

1 (1) A person is guilty of trafficking in a controlled substance in the second degree
2 when:

3 (a) He or she knowingly and unlawfully traffics in:

- 4 1. Ten (10) or more dosage units of a controlled substance classified in
5 Schedules I and II that is not a narcotic drug; or specified in KRS
6 218A.1412, and which is not a synthetic drug, salvia, or marijuana; or
7 2. Twenty (20) or more dosage units of a controlled substance classified in
8 Schedule III;

9 (b) He or she knowingly and unlawfully prescribes, distributes, supplies, or sells
10 an anabolic steroid for:

- 11 1. Enhancing human performance in an exercise, sport, or game; or
12 2. Hormonal manipulation intended to increase muscle mass, strength, or
13 weight in the human species without a medical necessity;~~or~~

14 (c) He or she knowingly and unlawfully traffics in any quantity of a controlled
15 substance specified in paragraph (a) of this subsection in an amount less than
16 the amounts specified in that paragraph; or

17 (d) He or she knowingly and unlawfully prescribes, distributes, supplies, sells,
18 or traffics in any quantity of an abortion-inducing drug as defined in KRS
19 311.7731.

20 (2) (a) Except as provided in paragraph (b) of this subsection, any person who
21 violates the provisions of subsection (1) of this section shall be guilty of a
22 Class D felony for the first offense and a Class C felony for a second or
23 subsequent offense.

24 (b) Any person who violates the provisions of subsection (1)(c) or (d) of this
25 section shall be guilty of:

- 26 1. A Class D felony for the first offense, except that KRS Chapter 532 to
27 the contrary notwithstanding, the maximum sentence to be imposed

1 shall be no greater than three (3) years; and

2 2. A Class D felony for a second offense or subsequent offense.

3 ➔Section 3. KRS 218A.1415 is amended to read as follows:

4 (1) A person is guilty of possession of a controlled substance in the first degree when
5 he or she knowingly and unlawfully possesses:

6 (a) A controlled substance that is classified in Schedules I or II and is a narcotic
7 drug;

8 (b) A controlled substance analogue;

9 (c) Methamphetamine;

10 (d) Lysergic acid diethylamide;

11 (e) Phencyclidine;

12 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of
13 isomers, and analogues;~~[-or]~~

14 (g) Flunitrazepam, including its salts, isomers, and salts of isomers; or

15 (h) An abortion-inducing drug.

16 (2) Possession of a controlled substance in the first degree is a Class D felony subject
17 to the following provisions:

18 (a) The maximum term of incarceration shall be no greater than three (3) years,
19 notwithstanding KRS Chapter 532;

20 (b) For a person's first or second offense under this section, he or she may be
21 subject to a period of:

22 1. Deferred prosecution pursuant to KRS 218A.14151; or

23 2. Presumptive probation;

24 (c) Deferred prosecution under paragraph (b) of this subsection shall be the
25 preferred alternative for a first offense unless the controlled substance is an
26 abortion-inducing drug; and

27 (d) If a person does not enter a deferred prosecution program for his or her first or

1 second offense, he or she shall be subject to a period of presumptive
2 probation, unless:

3 1. A court determines the defendant is not eligible for presumptive
4 probation as defined in KRS 218A.010; or

5 2. The controlled substance is an abortion-inducing drug.

6 (3) This section shall not be construed to subject a pregnant woman in possession of
7 an abortion-inducing drug for her personal use to any criminal conviction or
8 penalty under this section.

9 (4) As used in this section, "abortion-inducing drug" has the same meaning as in
10 KRS 311.7731.

11 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
12 READ AS FOLLOWS:

13 (1) A person is guilty of importing an abortion-inducing drug when he or she
14 knowingly and unlawfully transports any quantity of an abortion-inducing drug
15 into the Commonwealth by any means with the intent to sell or distribute the
16 abortion-inducing drug.

17 (2) Importing an abortion-inducing drug is a Class D felony, and the defendant:

18 (a) Shall not be eligible for pretrial diversion; and

19 (b) Shall not be released on probation, shock probation, conditional discharge,
20 or parole until he or she has served at least eighty-five percent (85%) of the
21 sentence imposed.

22 (3) As used in this section, "abortion-inducing drug" has the same meaning as in
23 KRS 311.7731.

24 ➔Section 5. KRS 216.302 is amended to read as follows:

25 (1) A person is guilty of assisted suicide when he or she:

26 (a) [commits a Class C felony when the person]Knowingly by force or duress
27 causes another person to commit or to attempt to commit suicide; or ~~]~~

1 (b) ~~[(2) A person commits a Class D felony when the person,]~~ With the purpose
2 of assisting another person to commit or to attempt to commit suicide,
3 knowingly and intentionally either:

4 1.[(a)] Provides the physical means, including any drug, medication, or
5 other substance by which another person commits or attempts to
6 commit suicide; or

7 2.[(b)] Participates in a physical act by which another person commits or
8 attempts to commit suicide.

9 (2) Assisted suicide is a Class B felony.

10 ➔SECTION 6. A NEW SECTION OF KRS 216.300 TO 216.308 IS CREATED
11 TO READ AS FOLLOWS:

12 (1) A person is guilty of medically assisted aid in dying when he or she:

13 (a) Prescribes, dispenses, provides, administers, or assists in the administration
14 of any drug, medication, or other substance knowing that the drug,
15 medication, or other substance will be used to cause or hasten the death of
16 another person;

17 (b) Participates in or assists in any manner or form relating to the use of any
18 drug, medication, or other substance knowing that the drug, medication, or
19 other substance will be used to cause or hasten the death of another person;
20 or

21 (c) Coerces, encourages, or pressures another person to request any drug,
22 medication, or other substance knowing that the drug, medication, or other
23 substance will be used to cause or hasten a person's death.

24 (2) Medically assisted aid in dying is a Class B felony.

25 (3) Any contract, agreement, or provision, including advance directives, insurance
26 policies, or surrogacy arrangements that would require or permit medically
27 assisted aid in dying shall constitute a violation of this section.

1 (4) This section shall not prohibit:

2 (a) The provision of appropriate pain management, including the use of
3 medication necessary to alleviate pain or suffering, even if the treatment
4 may foreseeably, but not intentionally, shorten life;

5 (b) The withholding or withdrawal of extraordinary or disproportionate
6 medical treatment that is futile or burdensome, provided basic care
7 including food, water, and comfort continue to be offered;

8 (c) Providing palliative care, hospice services, and spiritual support that uphold
9 the dignity of the person until natural death; or

10 (d) Compliance with the desires expressed in a medical order for scope of
11 treatment under KRS 311.6225 or a living will directive under KRS 311.623.

12 (5) (a) Whenever the death of a person results from a violation of any provision of
13 this section, damages may be recovered for the death from the person who
14 caused it, or whose agent or servant caused it.

15 (b) The action shall be prosecuted by the personal representative of the
16 deceased.

17 (c) Damages shall include:

18 1. Funeral expenses;

19 2. The cost of administration of the estate of the decedent;

20 3. The costs of recovery, including attorney's fees and the services of
21 expert witnesses, and any other costs incurred in the bringing of the
22 action;

23 4. Punitive damages; and

24 5. Any other damages allowed by law.

25 ➔Section 7. KRS 216.308 is amended to read as follows:

26 The licensing agency which issued a license or certification to a licensed health care
27 professional who assists in a suicide in violation of Section 5 of this Act or violates

1 Section 6 of this Act shall ~~[KRS 216.302 may]~~ revoke the license or certification of that
2 person upon receipt of:

- 3 (1) A copy of the record of the criminal conviction or plea of guilty for a felony
4 in violation of Section 5 or 6 of this Act~~[KRS 216.302]~~; or
5 (2) A copy of the record of a judgment of contempt of court for violating an
6 injunction issued pursuant to KRS 216.306.

7 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) In addition to any other remedy provided by law, any person or entity that:

10 (a) Mails or sends by common carrier any abortion-inducing drug to an
11 address in this Commonwealth or to a person in this Commonwealth;

12 (b) Intentionally places an abortion-inducing drug into the stream of commerce
13 when the person or entity knows or reasonably should know there is a
14 substantial likelihood that the abortion-inducing drug will be used in this
15 Commonwealth, or mailed or sent by common carrier to an address or
16 person in this Commonwealth; or

17 (c) Knowingly prescribes an abortion-inducing drug to a person in this
18 Commonwealth, regardless of whether the prescriber was in this
19 Commonwealth or knew the recipient was in this Commonwealth;

20 shall be liable for compensatory and punitive damages, court costs, and
21 reasonable attorney's fees in a civil cause of action brought by the pregnant
22 woman or her spouse, parent or legal guardian if she is a minor, next friend or
23 guardian, or estate.

24 (2) The action may be filed in the Circuit Court of the county where the alleged
25 violation occurred or the county where the plaintiff resides.

26 (3) Any person or entity found liable under this section shall be jointly and severally
27 liable with each other person or entity, if any, found liable under this section for

1 the damages arising from the same violation under subsection (1) of this section.

2 (4) In any action under this section, the court may also award any injunctive or other
3 equitable relief that the court finds appropriate.

4 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO
5 READ AS FOLLOWS:

6 (1) As used in this section:

7 (a) "Chemical abortion" means the use or prescription of any abortion-
8 inducing drug dispensed with the intent to cause the death of the unborn
9 child;

10 (b) "Complication" or "abortion complication" has the same meaning as in
11 KRS 311.7731, but includes any harmful event or adverse outcome to a
12 patient related to an abortion from an abortion-inducing drug, including:

13 1. Uterine perforation or other injury or damage to the uterus;

14 2. Hemorrhage;

15 3. Failure to actually terminate the pregnancy requiring additional
16 treatment or surgical procedures that include risks such as uterine
17 perforation, cervical laceration, or scarring;

18 4. Aspiration or allergic reactions to anesthesia and abortion-inducing
19 drugs;

20 5. Excessive pain or discomfort or nausea;

21 6. Emotional complications; and

22 7. Any other adverse event as defined by the Food and Drug
23 Administration criteria provided in the MedWatch Reporting System;

24 (c) "Healthcare provider" has the same meaning as in KRS 311.821;

25 (d) "Physician" has the same meaning as in KRS 311.720; and

26 (e) "Urgent treatment facility" or "urgent care facility" has the same meaning
27 as in KRS 216B.405.

1 (2) Any physician or other healthcare provider who believes or has reason to believe
2 that a patient presenting for treatment has experienced or is experiencing a
3 complication arising from the use of an abortion-inducing drug shall provide the
4 following written statement to the patient:

5 "If you have recently taken an abortion-inducing drug to terminate a pregnancy,
6 the Commonwealth of Kentucky wants you to be aware that you, or your
7 representative as authorized under Section 8 of this Act, may have a private cause
8 of action against the manufacturer, distributor, or prescriber of the abortion-
9 inducing drug for your death, any complication or abortion complication as
10 defined in this section, or other injury you may have sustained as a result of the
11 use of the abortion-inducing drug, including actual damages, loss of consortium,
12 pain and suffering, punitive damages, court costs, and reasonable attorney's fees,
13 as established under Section 8 of this Act. You or your representative may also
14 have a claim for damages against any abortion pill provider, physician, or
15 healthcare provider for failure to advise you of possible complications from the
16 use of an abortion-inducing drug or for failure to advise you of the potential
17 ability of medical professionals to reverse the effects of a drug-induced abortion
18 and where to obtain information for assistance in locating a medical professional
19 that can aid in the reversal of a chemical or drug-induced abortion. IF YOU
20 HAVE EXPERIENCED COMPLICATIONS AND ARE HERE IN NEED OF
21 EMERGENCY CARE OR MEDICAL CARE, YOU HAVE THE RIGHT TO
22 TELL THE HEALTHCARE PROVIDER TREATING YOU THAT YOU HAVE
23 HAD A CHEMICAL OR DRUG-INDUCED ABORTION. PROVIDING THIS
24 INFORMATION WILL NOT RESULT IN ANY CRIMINAL OR CIVIL
25 PENALTY TO YOU AND WILL FURTHER HELP SAVE YOUR LIFE."

26 (3) Every physician, healthcare provider, emergency room, and urgent treatment
27 center or urgent care facility shall make copies of the written statement in

1 subsection (2) of this section available for any patient who may be experiencing a
2 complication or abortion complication that is reasonably believed to be the result
3 of the use of an abortion-inducing drug, and each health facility shall designate
4 and make available appropriate staff to provide this statement to any patient
5 identified under this section.

6 (4) The cabinet shall make the written statement in subsection (2) of this section
7 available on its website in a downloadable format for any person.