

1 AN ACT relating to abortion.

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

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

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

6 (1) (a) "Abortion" means the performance of any act with the intent to terminate the~~[~~  
7 ~~clinically diagnosable]~~ pregnancy of a woman~~[ known to be pregnant with~~  
8 ~~knowledge that the termination by those means will, with reasonable~~  
9 ~~likelihood, cause the death of the unborn child by one (1) or more of the~~  
10 ~~following means:~~

11 ~~1. Administering, prescribing, or providing any abortion inducing drug as~~  
12 ~~defined in KRS 311.7731, potion, medicine, or any other substance or~~  
13 ~~device to a pregnant female; or~~

14 ~~2. Using an instrument or external force on a pregnant female].~~

15 (b) "Abortion" does not mean those actions that require **termination of a**  
16 **pregnancy**~~[separating the pregnant woman from her unborn child]~~ when  
17 performed by a licensed physician as provided in KRS 311.723;

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

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

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

- 1 (5) **"Ectopic pregnancy" means an unborn child or embryo developing outside of the**  
2 **uterus;**
- 3 (6) "Family planning services" means educational, medical, and social services and  
4 activities that enable individuals to determine the number and spacing of their  
5 children and to select the means by which this may be achieved;
- 6 (7)~~(6)~~ "Fetus" means a human being from fertilization until birth;
- 7 (8)~~(7)~~ "Hospital" means those institutions licensed in the Commonwealth of  
8 Kentucky pursuant to the provisions of KRS Chapter 216;
- 9 (9)~~(8)~~ "Human being" means any member of the species homo sapiens from  
10 fertilization until death;
- 11 (10) **"Incomplete miscarriage" or "missed miscarriage" means the loss of a**  
12 **pregnancy in which the pregnancy tissue or products of conception have not yet**  
13 **been expelled from the uterus;**
- 14 (11) **"Lethal fetal anomaly" means a fetal condition diagnosed before birth, in**  
15 **writing, by a physician within his or her reasonable medical judgment that the**  
16 **unborn child is incompatible with life outside the womb, and confirmed by the**  
17 **opinion of another physician, in writing, following an examination of the patient**  
18 **and a review of the relevant medical records;**
- 19 (12)~~(9)~~ "Medical emergency" **or "medically necessary"** means any condition which,  
20 on the basis of the physician's reasonable medical judgment, so complicates the  
21 medical condition of a pregnant ~~woman~~~~[female]~~ as to necessitate the immediate  
22 **performance or inducement of an** abortion of her pregnancy to avert her death or  
23 for which a delay will **directly, indirectly, or potentially** create **a** serious risk of  
24 substantial and irreversible;
- 25 (a) **Harm to the physical health of the pregnant woman, or life-threatening**  
26 **conditions, including but not limited to premature rupture of the**  
27 **membranes, hemorrhage, preeclampsia, or cardiac complications;**

1       **(b) Long-term damage to reproductive health or fertility, including**  
2       **complications that may render the pregnant woman unable to conceive or**  
3       **carry a pregnancy in the future; or**

4       **(c)** Impairment of a major bodily function;

5       **(13)**~~[(10)]~~ "Medical necessity" means **the same as "medically necessary"**~~[a medical~~  
6       ~~condition of a pregnant woman that, in the reasonable medical judgment of the~~  
7       ~~physician who is attending the woman, so complicates the pregnancy that it~~  
8       ~~necessitates the immediate performance or inducement of an abortion];~~

9       **(14)**~~[(11)]~~ "Partial-birth abortion" means an abortion in which the physician performing  
10       the abortion partially vaginally delivers a living fetus before killing the fetus and  
11       completing the delivery;

12       **(15)**~~[(12)]~~ "Perinatal care" means the health care provided to both the mother and child,  
13       including prenatal, intrapartum, and postpartum care, with a focus on optimizing  
14       outcomes and addressing potential complications;

15       **(16)**~~[(13)]~~ "Physician" means any person licensed to practice medicine in the  
16       Commonwealth or osteopathy pursuant to this chapter;

17       **(17)**~~[(14)]~~ "Probable gestational age of the embryo or fetus" means the gestational age  
18       that, in the judgment of a physician, is, with reasonable probability, the gestational  
19       age of the embryo or fetus at the time that the abortion is planned to be performed;

20       **(18)**~~[(15)]~~ "Public agency" means the Commonwealth of Kentucky; any agency,  
21       department, entity, or instrumentality thereof; any city, county, agency, department,  
22       entity, or instrumentality thereof; or any other political subdivision of the  
23       Commonwealth, agency, department, entity, or instrumentality thereof;

24       **(19)**~~[(16)]~~ "Reasonable medical judgment" means the range of conclusions or  
25       recommendations that licensed medical practitioners with similarly sufficient  
26       training and experience may communicate to a patient based upon current available  
27       medical evidence;

1 ~~(20)~~~~(17)~~ "Unborn child" has the same meaning as in Section 10 of this Act~~"unborn~~  
 2 ~~human being" in KRS 311.772~~];

3 ~~(21)~~~~(18)~~ "Vaginally delivers a living fetus before killing the fetus" means deliberately  
 4 and intentionally delivers into the vagina a living fetus, or a substantial portion  
 5 thereof, for the purpose of performing a procedure the physician knows will kill the  
 6 fetus, and kills the fetus; and

7 ~~(22)~~~~(19)~~ "Viability" means that stage of human development when the life of the  
 8 unborn child may be continued by natural or life-supportive systems outside the  
 9 womb of the mother.

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

11 (1) No abortion~~action that requires separating a pregnant woman from her unborn~~  
 12 ~~child~~ shall be performed, except the following when performed by a physician  
 13 based upon his or her reasonable medical judgment:

14 (a) A medical procedure performed with the intent to save the life or preserve the  
 15 health of an unborn child;

16 (b) Lifesaving miscarriage management, which includes medically necessary  
 17 interventions when the pregnancy has ended or is in the unavoidable and  
 18 untreatable process of ending due to spontaneous, missed, or incomplete  
 19 miscarriage;

20 (c) Sepsis and hemorrhage emergency medical interventions required when a  
 21 miscarriage or impending miscarriage results in a life-threatening infection or  
 22 excessive bleeding;

23 (d) A medically necessary intervention, inducement, or delivery for the removal  
 24 of a dead child from the uterine cavity~~, when documented in the woman's~~  
 25 ~~medical record along with the results of an obstetric ultrasound test,~~  
 26 ~~confirming that fetal cardiac activity is not present at a gestational age when it~~  
 27 ~~should be present~~];

- 1 (e) The removal of an ectopic pregnancy or a pregnancy that is not implanted  
 2 normally within the endometrial cavity;
- 3 (f) The use of methotrexate or similar medications to treat an ectopic pregnancy;
- 4 (g) The removal of a molar pregnancy;
- 5 (h) **The removal of an unborn child with a lethal fetal anomaly;**
- 6 **(i)** A medical procedure necessary based on reasonable medical judgment to  
 7 prevent the death or substantial risk of death of the pregnant woman due to a  
 8 physical condition, or to prevent serious, permanent impairment of a life-  
 9 sustaining organ of a pregnant woman. However, the physician shall make  
 10 reasonable medical efforts under the circumstances to preserve both the life of  
 11 the mother and the life of the unborn child in a manner consistent with  
 12 reasonable medical practice;~~[-or]~~
- 13 ~~(j)(i)~~ Medical treatment provided to the mother by a licensed physician,  
 14 which results in the accidental or unintentional injury or death of the unborn  
 15 human being; **or**
- 16 **(k) If, in the physician's reasonable medical judgment, the pregnancy is the**  
 17 **result of rape under KRS 510.040, 510.050, or 510.060, or incest under KRS**  
 18 **530.020(2)(b) or (c), and the gestational age of the unborn child is twenty-**  
 19 **two (22) weeks or less.**
- 20 (2) No treatment or procedure authorized under subsection (1) of this section shall be  
 21 performed except in compliance with regulations which the cabinet shall  
 22 promulgate to ensure that:
- 23 (a) 1. Before the treatment or procedure is performed, the pregnant woman  
 24 shall have a private medical consultation either with the physician who  
 25 is to provide the treatment or perform the procedure or with the referring  
 26 physician in a place, at a time and of a duration reasonably sufficient to  
 27 enable the physician to determine whether, based upon his or her

- 1 reasonable medical judgment, the action is necessary;
- 2 2. The physician shall document in the pregnant woman's medical record  
3 the pregnant woman's informed consent to the treatment or procedure  
4 following a discussion, acknowledged in writing by the woman, of the  
5 risks, benefits, and alternatives to the treatment or procedure, sufficient  
6 in scope for a reasonable person to make an informed decision;
- 7 (b) The physician who is to provide the treatment or perform the procedure or the  
8 referring physician ~~shall~~will describe the basis for his or her reasonable  
9 medical judgment that the action is necessary on a form prescribed by the  
10 cabinet as required by KRS 213.101; and
- 11 (c) 1. Paragraph (a) of this subsection shall not apply when, in the reasonable  
12 medical judgment of the attending physician based on the particular  
13 facts of the case before him or her, there exists a medical emergency. In  
14 the case of a medical emergency, the physician shall describe the basis  
15 of his or her reasonable medical judgment that an emergency exists on a  
16 form prescribed by the cabinet as required by KRS 213.101; and
- 17 2. If an emergency exists which limits the time available for  
18 documentation or the scope of the informed consent discussion, the  
19 physician~~[ shall endeavor to complete the requirements of this~~  
20 ~~subsection to the extent possible without undue risk to the woman's life~~  
21 ~~or health and]~~ shall promptly complete any required documentation  
22 when the emergency no longer exists.
- 23 (3) Notwithstanding any statute to the contrary, nothing in this chapter shall be  
24 construed as prohibiting a physician from prescribing or a woman from using birth  
25 control methods or devices, including, but not limited to, intrauterine devices, oral  
26 contraceptives, or any other birth control method or device.
- 27 (4) Nothing in this section shall be interpreted as permitting any violation of KRS

1 311.772.

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

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

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

- 11 1. The nature and purpose of the particular abortion procedure or treatment  
12 to be performed and of those medical risks and alternatives to the  
13 procedure or treatment that a reasonable patient would consider material  
14 to the decision of whether or not to undergo the abortion;
- 15 2. The probable gestational age of the embryo or fetus at the time the  
16 abortion is to be performed;
- 17 3. The medical risks associated with the pregnant woman carrying her  
18 pregnancy to term; and
- 19 4. The potential ability of a physician to reverse the effects of prescription  
20 drugs intended to induce abortion, where additional information about  
21 this possibility may be obtained, and contact information for assistance  
22 in locating a physician who may aid in the reversal;

23 (b) At least twenty-four (24) hours prior to the abortion, in an individual, private  
24 setting, a physician, licensed nurse, physician assistant, or social worker to  
25 whom the responsibility has been delegated by the physician has informed the  
26 pregnant woman that:

- 27 1. The cabinet publishes the printed materials described in subsection

- 1 (2)(a), (b), and (c) of this section and that she has a right to review the  
2 printed materials and that copies will be provided to her by the  
3 physician, licensed nurse, physician assistant, or social worker free of  
4 charge if she chooses to review the printed materials;
- 5 2. Medical assistance benefits may be available for prenatal care,  
6 childbirth, and neonatal care, and that more detailed information on the  
7 availability of ~~the~~<sup>[such]</sup> assistance is contained in the printed materials  
8 published by the cabinet;
- 9 3. The father of the fetus is liable to assist in the support of her child, even  
10 in instances where he has offered to pay for the abortion; and
- 11 4. It is illegal in Kentucky to intentionally perform an abortion, in whole or  
12 in part, because of:
- 13 a. The sex of the unborn child;
- 14 b. The race, color, or national origin of the unborn child; or
- 15 c. The diagnosis, or potential diagnosis, of Down syndrome or any  
16 other disability, ***except a lethal fetal anomaly***;
- 17 (c) At least twenty-four (24) hours prior to the abortion, a copy of the printed  
18 materials has been provided to the pregnant woman if she chooses to view  
19 these materials;
- 20 (d) The pregnant woman certifies in writing, prior to the performance or  
21 inducement of the abortion:
- 22 1. That she has received the information required to be provided under  
23 paragraphs (a), (b), and (c) of this subsection; and
- 24 2. That she consents to the particular abortion voluntarily and knowingly,  
25 and she is not under the influence of any drug of abuse or alcohol; and
- 26 (e) Prior to the performance or inducement of the abortion, the physician who is  
27 scheduled to perform or induce the abortion or the physician's agent receives a

1 copy of the pregnant woman's signed statement, on a form which may be  
2 provided by the physician, on which she consents to the abortion and that  
3 includes the certification required by paragraph (d) of this subsection.

4 (2) ~~[By January 1, 1999, ]~~The cabinet shall cause to be published in English in a  
5 typeface not less than twelve (12) point type the following~~[materials]~~:

6 (a) Materials that inform the pregnant woman about public and private agencies  
7 and services that are available to assist her through her pregnancy, upon  
8 childbirth, and while her child is dependent, including, but not limited to,  
9 adoption agencies. The materials shall include a comprehensive list of the  
10 available agencies and a description of the services offered by the agencies  
11 and the telephone numbers and addresses of the agencies, and inform the  
12 pregnant woman about available medical assistance benefits for prenatal care,  
13 childbirth, and neonatal care and about the support obligations of the father of  
14 a child who is born alive. The cabinet shall ensure that the materials are  
15 comprehensive and do not directly or indirectly promote, exclude, or  
16 discourage the use of any agency or service described in this section;

17 (b) Materials that inform the pregnant woman of the probable anatomical and  
18 physiological characteristics of the zygote, blastocyte, embryo, or fetus at two  
19 (2) week gestational increments for the first sixteen (16) weeks of her  
20 pregnancy and at four (4) week gestational increments from the seventeenth  
21 week of her pregnancy to full term, including any relevant information  
22 regarding the time at which the fetus possibly would be viable. The materials  
23 shall use language that is understandable by the average person who is not  
24 medically trained, shall be objective and nonjudgmental, and shall include  
25 only accurate scientific information about the zygote, blastocyte, embryo, or  
26 fetus at the various gestational increments. The materials shall include, for  
27 each of the two (2) ~~or~~ four (4) week increments specified in this

1 paragraph, a pictorial or photographic depiction of the zygote, blastocyte,  
2 embryo, or fetus. The materials shall also include, in a conspicuous manner, a  
3 scale or other explanation that is understandable by the average person and  
4 that can be used to determine the actual size of the zygote, blastocyte, embryo,  
5 or fetus at a particular gestational increment as contrasted with the depicted  
6 size of the zygote, blastocyte, embryo, or fetus at that gestational increment;  
7 and

8 (c) Materials that inform the pregnant woman of the potential ability of a  
9 physician to reverse the effects of prescription drugs intended to induce  
10 abortion, where additional information about this possibility may be obtained,  
11 and contact information for assistance in locating a physician who may aid in  
12 the reversal.

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

18 (4) If a medical emergency or medical necessity compels the performance or  
19 inducement of an abortion, the physician who will perform or induce the abortion,  
20 prior to its performance or inducement if possible, shall inform the pregnant woman  
21 of the medical indications supporting the physician's judgment that an immediate  
22 abortion is necessary. Any physician who performs or induces an abortion without  
23 the prior satisfaction of the conditions specified in subsection (1) of this section  
24 because of a medical emergency or medical necessity shall enter the reasons for the  
25 conclusion that a medical emergency or medical necessity exists in the medical  
26 record of the pregnant woman.

27 (5) If the conditions specified in subsection (1) of this section are satisfied, consent to

1 an abortion shall be presumed to be valid and effective.

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

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

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

11 (1) As used in this section:

12 (a) "Auscultate~~[Auscultate]~~" means to examine by listening for sounds made by  
13 internal organs of the fetus, specifically for a fetal heartbeat, utilizing an  
14 ultrasound transducer or a fetal heart rate monitor;

15 (b) "Obstetric ultrasound" or "ultrasound" means the use of ultrasonic waves for  
16 diagnostic or therapeutic purposes, specifically to monitor a developing fetus;  
17 and

18 (c) "Qualified technician" means a medical imaging technologist as defined in  
19 KRS 311B.020 who is certified in obstetrics and gynecology by the American  
20 Registry for Diagnostic Medical Sonography or a nurse midwife or advance  
21 practice nurse practitioner in obstetrics with certification in obstetrical  
22 ultrasonography.

23 (2) Prior to a woman giving informed consent to having any part of an abortion  
24 performed, the physician who is to perform the abortion or a qualified technician to  
25 whom the responsibility has been delegated by the physician shall:

26 (a) Perform an obstetric ultrasound on the pregnant woman;

27 (b) Provide a simultaneous explanation of what the ultrasound is depicting, which

- 1 shall include the presence and location of the unborn child within the uterus  
2 and the number of unborn children depicted and also, if the ultrasound image  
3 indicates that fetal demise has occurred, inform the woman of that fact;
- 4 (c) Display the ultrasound images so that the pregnant woman may view the  
5 images;
- 6 (d) Auscultate~~Auscultate~~ the fetal heartbeat of the unborn child so that the  
7 pregnant woman may hear the heartbeat if the heartbeat is audible;
- 8 (e) Provide a medical description of the ultrasound images, which shall include  
9 the dimensions of the embryo or fetus and the presence of external members  
10 and internal organs, if present and viewable; and
- 11 (f) Retain in the woman's medical record a signed certification from the pregnant  
12 woman that she has been presented with the information required to be  
13 provided under paragraphs (c) and (d) of this subsection and has viewed the  
14 ultrasound images, listened to the heartbeat if the heartbeat is audible, or  
15 declined to do so. The signed certification shall be on a form prescribed by the  
16 cabinet.
- 17 (3) When the ultrasound images and heartbeat sounds are provided to and reviewed  
18 with the pregnant woman, nothing in this section shall be construed to prevent the  
19 pregnant woman from averting her eyes from the ultrasound images or requesting  
20 the volume of the heartbeat be reduced or turned off if the heartbeat is audible.  
21 Neither the physician, the qualified technician, nor the pregnant woman shall be  
22 subject to any penalty if the pregnant woman refuses to look at the displayed  
23 ultrasound images or to listen to the heartbeat if the heartbeat is audible.
- 24 (4) The requirements of this section shall be in addition to any requirement contained  
25 in KRS 311.725 or any other section of KRS 311.710 to 311.820.
- 26 (5) The provisions of this section shall not apply:
- 27 (a) In the case of a medical emergency or medical necessity. If a medical

1 emergency or medical necessity compels the performance or inducement of an  
 2 abortion, the physician who will perform or induce the abortion, prior to its  
 3 performance or inducement if possible, shall inform the pregnant woman of  
 4 the medical indications supporting the physician's judgment that an immediate  
 5 abortion is necessary. Any physician who performs or induces an abortion  
 6 without the prior satisfaction of the requirements of this section because of a  
 7 medical emergency or medical necessity shall enter the reasons for the  
 8 conclusion that a medical emergency or medical necessity exists in the  
 9 medical record of the pregnant woman; or

10 **(b) If the unborn child the pregnant woman is carrying has a lethal fetal**  
 11 **anomaly.**

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

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

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

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

18 (c) "Abortion" means the use of any instrument, medicine, drug, or any other  
 19 substance or device with intent to terminate the pregnancy of a woman known  
 20 to be pregnant~~[with intent]~~ other than **as provided in Section 2 of this Act**~~[to~~  
 21 ~~increase the probability of a live birth, to preserve the life or health of the~~  
 22 ~~child after live birth, or to remove a dead fetus].~~

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

24 (a) The attending physician has secured the informed written consent of the  
 25 minor and one (1) parent or legal guardian with joint or physical custody and  
 26 the consenting parent or legal guardian of the minor has made a reasonable  
 27 attempt to notify any other parent with joint or physical custody at least forty-

- 1 eight (48) hours prior to providing the informed written consent.
- 2 1. Notice shall not be required to be provided to any parent who has:
- 3 a. Previously been enjoined by a domestic violence order or
- 4 interpersonal protective order, regardless of whether or not the
- 5 person to be protected by the order was the minor; or
- 6 b. Been convicted of, or entered into a diversion program for:<sup>2</sup>~~[,]~~
- 7 ii. A criminal offense against a victim who is a minor as
- 8 defined in KRS 17.500;<sup>2</sup> or~~[, for]~~
- 9 iii. A violent or sexual criminal offense under KRS Chapter 506,
- 10 507, 507A, 508, 509, 510, 529, 530, or 531.
- 11 2. The informed written consent shall include:
- 12 a. A copy of the minor's government-issued identification, a copy of
- 13 the consenting parent's or legal guardian's government-issued
- 14 identification, and written documentation including but not limited
- 15 to a birth certificate, court-ordered custodial paperwork, or tax
- 16 return, establishing that he or she is the lawful parent or legal
- 17 guardian; and
- 18 b. The parent's or legal guardian's certification that he or she consents
- 19 to the abortion. The certification shall be in a signed, dated, and
- 20 notarized document that has been initialed on each page and that
- 21 contains the following statement, which shall precede the signature
- 22 of the parent or legal guardian: "I, (insert name of parent or legal
- 23 guardian), am the (select "parent" or "legal guardian") of (insert
- 24 name of minor) and give consent for (insert name of attending
- 25 physician) to perform an abortion on her. Under penalties of
- 26 perjury, I declare that I have read the foregoing statement and that
- 27 the facts stated in it are true."

- 1           3. The attending physician shall keep a copy of the informed written  
2 consent in the medical file of the minor for five (5) years after the minor  
3 reaches eighteen (18) years of age or for seven (7) years, whichever is  
4 longer.
- 5           4. The attending physician securing the informed written consent from a  
6 parent or legal guardian under this subsection shall execute for inclusion  
7 in the medical record of the minor an affidavit stating: "I, (insert name  
8 of attending physician), certify that, according to my best information  
9 and belief, a reasonable person under similar circumstances would rely  
10 on the information presented by both the minor and her parent or legal  
11 guardian as sufficient evidence of identity.";
- 12       (b) The minor is emancipated and the attending physician has received the  
13 informed written consent of the minor; or
- 14       (c) The minor elects to petition any Circuit or District Court of the  
15 Commonwealth pursuant to subsection (3) of this section and obtain an order  
16 pursuant to subsection (4) of this section granting consent to the abortion and  
17 the attending physician has received the informed written consent of the  
18 minor.
- 19       (3) Every minor shall have the right to petition any Circuit or District Court of the  
20 Commonwealth for an order granting the right to self-consent to an abortion  
21 pursuant to the following procedures:
- 22       (a) The minor or her next friend may prepare and file a petition setting forth the  
23 request of the minor for an order of consent to an abortion;
- 24       (b) The court shall ensure that the:
- 25           1. Minor prepares or her next friend is given assistance in preparing and  
26 filing the petition; and
- 27           2. ~~shall ensure that the~~ Minor's identity is kept anonymous;

- 1 (c) The minor may participate in proceedings in the court on her own behalf or  
2 through her next friend and the court shall appoint a guardian ad litem for her.  
3 The court shall advise her that she has a right to court-appointed counsel and  
4 shall provide her with such counsel upon her request;
- 5 (d) All proceedings under this section shall be anonymous and shall be given  
6 preference over other matters to ensure that the court may reach a decision  
7 promptly, but in no case shall the court fail to rule within seventy-two (72)  
8 hours of the time of application, provided that the seventy-two (72) hour  
9 limitation may be extended at the request of the minor; and
- 10 (e) The court shall hold a hearing on the merits of the petition before reaching a  
11 decision. The court shall hear evidence at the hearing relating to:
- 12 1. The minor's:
- 13 a. Age;
- 14 b. Emotional development and stability;
- 15 c. Maturity;
- 16 d. Intellect;
- 17 e. Credibility and demeanor as a witness;
- 18 f. Ability to accept responsibility;
- 19 g. Ability to assess both the current and future life-impacting  
20 consequences of, and alternatives to, the abortion; and
- 21 h. Ability to understand and explain the medical risks of the abortion  
22 and to apply that understanding to her decision; and
- 23 2. Whether there may be any undue influence by another on the minor's  
24 decision to have an abortion.
- 25 (4) (a) If the court finds by:
- 26 1. Clear and convincing evidence that the minor is sufficiently mature to  
27 decide whether to have an abortion;

- 1           2. Clear and convincing evidence that the requirements of this section are  
2           not in the best interest of the minor; or
- 3           3. A preponderance of the evidence that the minor is the victim of child  
4           abuse or sexual abuse inflicted by one (1) or both of her parents or her  
5           legal guardian;
- 6           the court shall enter a written order, making specific factual findings and legal  
7           conclusions supporting its decision to grant the petition for an abortion.
- 8           (b) If the court does not make any of the findings specified in paragraph (a) of  
9           this subsection, the court shall deny the petition.
- 10          (c) As used in this subsection, "best interest of the minor" shall not include  
11          financial best interest, financial considerations, or the potential financial  
12          impact on the minor or the minor's family if the minor does not have an  
13          abortion.
- 14          (5) Any minor shall have the right of anonymous and expedited appeal to the Court of  
15          Appeals, and that court shall give precedence over other pending matters.
- 16          (6) All hearings under this section, including appeals, shall remain confidential and  
17          closed to the public. The hearings shall be held in chambers or in a similarly private  
18          and informal setting within the courthouse.
- 19          (7) No fees shall be required of any minor who declares she has ~~insufficient~~  
20          ~~sufficient~~ funds to pursue the procedures provided by this section.
- 21          (8) (a) The Supreme Court is respectfully requested to promulgate any rules ~~and~~  
22          ~~regulations~~ it deems~~feels are~~ necessary to ensure that proceedings under  
23          this section are handled in an expeditious and anonymous manner.
- 24          (b) The Supreme Court, through the Administrative Office of the Courts, shall  
25          report by February 1 of each year to the Legislative Research Commission  
26          and the cabinet~~on~~ the number of petitions filed under subsection (3) of this  
27          section for the preceding year, and the timing and manner of disposal of the

1 petition by each court. For each approved petition granting an abortion filed  
2 under subsection (3) of this section, the specific court finding in subsection  
3 (4) of this section shall be included in the report.

4 (9) (a) The requirements of subsections (2), (3), and (4) of this section shall not apply  
5 when, in the best medical judgment of the physician based on the facts of the  
6 case before him or her, a medical emergency exists that so complicates the  
7 pregnancy as to require an immediate abortion.

8 (b) If a medical emergency exists, the physician shall make reasonable attempts,  
9 whenever possible, and without endangering the minor, to contact the parent  
10 or legal guardian of the minor, and may proceed, but must document reasons  
11 for the medical necessity in the minor's medical records.

12 (c) The physician shall inform the parent or legal guardian, in person or by  
13 telephone, within twenty-four (24) hours of the abortion, including details of  
14 the medical emergency that necessitated the abortion without the parent's or  
15 legal guardian's consent. The physician shall also provide this information in  
16 writing to the parent or legal guardian at his or her last known address by  
17 first-class mail or by certified mail, return receipt requested, with delivery  
18 restricted to the parent or legal guardian.

19 (10) A report indicating the basis for any medical judgment that warrants failure to  
20 obtain consent pursuant to this section shall be filed with the Cabinet for Health and  
21 Family Services on a form supplied by the cabinet. This report shall be confidential.

22 (11) Failure to obtain consent ***as required by***~~[pursuant to the requirements of]~~ this  
23 section ***shall be***~~[is]~~ prima facie evidence of failure to obtain informed consent and  
24 of interference with family relations in appropriate civil actions. The law of this  
25 state shall not be construed to preclude the award of exemplary damages in any  
26 appropriate civil action relevant to violations of this section. Nothing in this section  
27 shall be construed to limit the common-law rights of parents.

1 (12) A minor upon whom an abortion is performed is not guilty of violating this section.

2 ➔Section 6. KRS 311.7701 is amended to read as follows:

3 As used in KRS 311.7701 to 311.7711:

4 (1) "Conception" means fertilization;

5 (2) "Contraceptive" means a drug, device, or chemical that prevents conception;

6 (3) **"Ectopic pregnancy" has the same meaning as in Section 1 of this Act;**

7 **(4)** "Fertilization" has the same meaning as in KRS 311.781;

8 ~~(5)(4)~~ "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic  
9 contraction of the fetal heart within the gestational sac;

10 ~~(6)(5)~~ "Fetus" means the human offspring developing during pregnancy from the  
11 moment of conception and includes the embryonic stage of development;

12 ~~(7)(6)~~ "Frivolous conduct" has the same meaning as in KRS 311.784;

13 ~~(8)(7)~~ "Gestational age" means the age of an unborn human individual as calculated  
14 from the first day of the last menstrual period of a pregnant woman;

15 ~~(9)(8)~~ "Gestational sac" means the structure that comprises the extraembryonic  
16 membranes that envelop the fetus and that is typically visible by ultrasound after  
17 the fourth week of pregnancy;

18 ~~(10)(9)~~ "Intrauterine pregnancy" means a pregnancy in which the fetus is attached to  
19 the placenta within the uterus of the pregnant woman;

20 ~~(11)(10)~~ **"Lethal fetal anomaly" has the same meaning as in Section 1 of this Act;**

21 ~~(12)~~ "Medical emergency" **or "medically necessary"** has the same meaning as in  
22 **Section 1 of this Act**~~[KRS 311.781];~~

23 ~~(13)(11)~~ "Physician" has the same meaning as in KRS 311.720;

24 ~~(14)(12)~~ "Pregnancy" means the human female reproductive condition that begins with  
25 fertilization, when the woman is carrying the developing human offspring, and that  
26 is calculated from the first day of the last menstrual period of the woman;

27 ~~(15)(13)~~ "Serious risk of the substantial and irreversible impairment of a major bodily

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

2 ~~(16)~~~~(14)~~ "Spontaneous miscarriage" means the natural or accidental termination of a  
3 pregnancy and the expulsion of the fetus, typically caused by genetic defects in the  
4 fetus or physical abnormalities in the pregnant woman;

5 ~~(17)~~~~(15)~~ "Standard medical practice" means the degree of skill, care, and diligence that  
6 a physician of the same medical specialty would employ in like circumstances. As  
7 applied to the method used to determine the presence of a fetal heartbeat for  
8 purposes of KRS 311.7704, "standard medical practice" includes employing the  
9 appropriate means of detection depending on the estimated gestational age of the  
10 fetus and the condition of the woman and her pregnancy; and

11 ~~(18)~~~~(16)~~ "Unborn child" and "unborn human individual" have the same meaning as  
12 "unborn child" has in KRS 311.781.

13 ➔Section 7. KRS 311.7706 is amended to read as follows:

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

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

21 1. Is designed or intended to prevent the death of the pregnant woman or to  
22 prevent a serious risk of the substantial and irreversible impairment of a  
23 major bodily function as defined in Section 10 of this Act of the  
24 pregnant woman;

25 2. Is necessary because of a lethal fetal anomaly, ectopic pregnancy or  
26 other extrauterine pregnancy, missed miscarriage, or incomplete  
27 miscarriage; or

1           **3. Is performed because, in the reasonable medical judgment of the**  
 2           **physician, the pregnancy is the result of rape under KRS 510.040,**  
 3           **510.050, or 510.060, or incest under KRS 530.020(2)(b) or (c), and the**  
 4           **gestational age of the unborn child is twenty-two (22) weeks or less.**

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

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

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

18           (c) **A physician who performs a medical procedure as described in paragraph**  
 19           **(a)3. of this subsection shall, in writing, specify the basis for the**  
 20           **determination that the gestational age of the unborn child is twenty-two (22)**  
 21           **weeks or less.**

22           (d) The physician shall place the written document required by paragraph (b) or  
 23           (c) of this subsection in the pregnant woman's medical records. The physician  
 24           shall maintain a copy of the document in the physician's own records for at  
 25           least seven (7) years from the date the document is created.

26           (3) A person is not in violation of subsection (1) of this section if the person acts in  
 27           accordance with KRS 311.7704(1) and the method used to determine the presence

1 of a fetal heartbeat does not reveal a fetal heartbeat.

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

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

11 ➔Section 8. KRS 311.772 is amended to read as follows:

12 (1) As used in this section:

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

15 (b) "Medical emergency" or "medically necessary" has the same meaning as  
16 in Section 1 of this Act;

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

21 ~~(d)(e)}~~ "Unborn human being" means an individual living member of the  
22 species homo sapiens throughout the entire embryonic and fetal stages of the  
23 unborn child from fertilization to full gestation and childbirth.

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

26 (a) Any decision of the United States Supreme Court which reverses, in whole or  
27 in part, Roe v. Wade, 410 U.S. 113 (1973), thereby restoring to the

1 Commonwealth of Kentucky the authority to prohibit abortion; or  
 2 (b) Adoption of an amendment to the United States Constitution which, in whole  
 3 or in part, restores to the Commonwealth of Kentucky the authority to prohibit  
 4 abortion.

5 (3) **Except as otherwise provided in Sections 2, 3, 4, 5, 7, 8, and 9 of this Act and**  
 6 **subsections (4) and (6) of this section**~~[(a) — Except as provided in KRS 311.723],~~  
 7 no person may knowingly:

8 ~~(a)[1.]~~ Administer to, prescribe for, procure for, or sell to any pregnant woman  
 9 any medicine, drug, or other substance with the specific intent of causing or  
 10 abetting the termination of the life of an unborn human being; or

11 ~~(b)[2.]~~ Use or employ any instrument or procedure upon a pregnant woman  
 12 with the specific intent of causing or abetting the termination of the life of an  
 13 unborn human being.†

14 ~~(b) — Any person who violates paragraph (a) of this subsection shall be guilty of a~~  
 15 ~~Class D felony.]~~

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

17 (a) For a licensed physician to perform a medical procedure **that is medically**  
 18 necessary in **the** reasonable medical judgment **of the physician** to prevent the  
 19 death or substantial risk of death due to a physical condition, or to prevent the  
 20 serious, permanent impairment of a life-sustaining organ of a pregnant  
 21 woman. However, **except as provided in paragraph (b) of this subsection**, the  
 22 physician shall make reasonable medical efforts under the circumstances to  
 23 preserve both the life of the mother and the life of the unborn human being in  
 24 a manner consistent with reasonable medical practice;†~~or†~~

25 (b) **For a licensed physician to perform an abortion because of a lethal fetal**  
 26 **anomaly;**

27 (c) **For a licensed physician to perform an abortion if in the reasonable**

1 medical judgment of the physician the pregnancy is the result of rape under  
 2 KRS 510.040, 510.050, or 510.060 or incest under KRS 530.020(2)(b) or (c),  
 3 and the gestational age of the unborn child is twenty-two (22) weeks or less;  
 4 or

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

8 (5) (a) Except as provided in this subsection, and notwithstanding any provision of  
 9 law to the contrary, a physician who complies with the requirements of KRS  
 10 311.710 to 311.830 shall be immune:

11 1. From criminal liability and penalty for any harm or damage alleged to  
 12 arise from an act or omission in the treatment of a woman related to  
 13 the termination of a pregnancy or a lost pregnancy, except nothing in  
 14 this paragraph limits any liability for gross negligence or wanton,  
 15 willful, malicious, or intentional conduct; and

16 2. From civil liability for any personal injury or damages alleged to arise  
 17 from the treatment of a pregnant woman, except nothing in this  
 18 paragraph limits any civil liability for injury or damage arising from a  
 19 deviation of the accepted medical standard of care, gross negligence,  
 20 or willful, malicious, or intentional conduct.

21 (b) Nothing in this subsection shall be construed to amend, repeal, or alter any  
 22 other immunity, defense, limitation of liability, or procedure available or  
 23 required under any other law or contract.

24 (6) 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 ~~(7)(6)~~ Nothing in this section may be construed to prohibit the sale, use,

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

5 ~~(8)~~~~(7)~~ The provisions of this section shall be effective relative to the appropriation of  
 6 Medicaid funds, to the extent consistent with any executive order by the President  
 7 of the United States, federal statute, appropriation rider, or federal regulation that  
 8 sets forth the limited circumstances in which states must fund abortion to remain  
 9 eligible to receive federal Medicaid funds pursuant to 42 U.S.C. sec. 1396 et seq.

10 ➔Section 9. KRS 311.780 is amended to read as follows:

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

13 (a) ***Medically*** necessary to preserve the life or health of the woman; ***or***

14 (b) ***There is a lethal fetal anomaly as defined in Section 1 of this Act.***

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

20 ➔Section 10. KRS 311.781 is amended to read as follows:

21 As used in KRS 311.781 to 311.786:

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

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

24 (3) "Medical emergency" ***or "medically necessary" has the same meaning as in***  
 25 ***Section 1 of this Act***~~means a condition that in the physician's reasonable medical~~

26 ~~judgment, based upon the facts known to the physician at that time, so complicates~~  
 27 ~~the woman's pregnancy as to necessitate the immediate performance or inducement~~

1 of an abortion in order to prevent the death of the pregnant woman or to avoid a  
 2 serious risk of the substantial and irreversible impairment of a major bodily  
 3 function of the pregnant woman that delay in the performance or inducement of the  
 4 abortion would create];

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

6 **(5)** "Pain-capable unborn child" means an unborn child of a probable gestational age of  
 7 fifteen (15) weeks or more;

8 **(6)**~~(5)~~ "Physician" has the same meaning as in KRS 311.720;

9 **(7)**~~(6)~~ "Probable gestational age" has the same meaning as in KRS 311.720;

10 **(8)**~~(7)~~ "Reasonable medical judgment" means a medical judgment that would be  
 11 made by a reasonably prudent physician, knowledgeable about the case and the  
 12 treatment possibilities with respect to the medical conditions involved;

13 **(9)**~~(8)~~ "Serious risk of the substantial and irreversible impairment of a major bodily  
 14 function" means any medically diagnosed condition that **in the reasonable medical**  
 15 **judgment of the physician** so complicates the pregnancy of the woman as to  
 16 directly, ~~or~~ indirectly, **or potentially** cause: ~~the substantial and irreversible]~~

17 **(a) Harm to the physical health of the pregnant woman, or life-threatening**  
 18 **conditions, including but not limited to unborn premature rupture of the**  
 19 **membranes, hemorrhage, preeclampsia, inevitable abortion, or cardiac**  
 20 **complications;**

21 **(b) Long-term damage to reproductive health or fertility, including**  
 22 **complications that may render the pregnant woman unable to conceive or**  
 23 **carry a pregnancy in the future; or**

24 **(c)** Impairment of a major bodily function~~. A medically diagnosed condition that~~  
 25 ~~constitutes a "serious risk of the substantial and irreversible impairment of a~~  
 26 ~~major bodily function" includes pre eclampsia, inevitable abortion, and~~  
 27 ~~premature rupture of the membranes, but does not include a condition related~~

1 ~~to the woman's mental health~~; and

2 ~~(10)~~<sup>(9)</sup> "Unborn child" means an individual organism of the species homo sapiens  
3 from fertilization until live birth.

4 ➔Section 11. KRS 311.782 is amended to read as follows:

5 (1) **Except as provided in Sections 2, 3, 4, 5, 7, 8, and 9 of this Act and subsection (2)**  
6 **of this section,** no person shall intentionally perform or induce or intentionally  
7 attempt to perform or induce an abortion on a pregnant woman when the probable  
8 gestational age of the unborn child is fifteen (15) weeks or greater.

9 (2) It shall be an affirmative defense to a charge under subsection (1) of this section  
10 that the abortion was intentionally performed or induced or intentionally attempted  
11 to be performed or induced by a physician and that the physician determined, in the  
12 physician's reasonable medical judgment, based on the facts known to the physician  
13 at that time, that either of the following applied:

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

16 (b) The abortion was **performed in compliance with Section 2 of this**  
17 **Act**~~[necessary to prevent the death of the pregnant woman or to avoid a~~  
18 ~~serious risk of the substantial and irreversible impairment of a major bodily~~  
19 ~~function of the pregnant woman. No abortion shall be necessary if it is based~~  
20 ~~on a claim or diagnosis that the pregnant woman will engage in conduct that~~  
21 ~~would result in her death or in substantial and irreversible impairment of a~~  
22 ~~major bodily function or if it is based on any reason related to her mental~~  
23 ~~health].~~

24 (3) (a) Except when a medical emergency exists that prevents compliance with KRS  
25 311.783, the affirmative defense set forth in subsection (2)(a) of this section  
26 **shall**~~[does]~~ not apply unless the physician who intentionally performs or  
27 induces or intentionally attempts to perform or induce the abortion makes a

1 determination of the probable gestational age of the unborn child as required  
2 by KRS 311.783(1) or relied upon such a determination made by another  
3 physician and certifies in writing, based on the results of the tests performed,  
4 that in the physician's reasonable medical judgment the unborn child's  
5 probable gestational age is:

6 1. Less than fifteen (15) weeks; or

7 2. *Twenty-two (22) weeks or less if the pregnancy is the result of rape*  
8 *under KRS 510.040, 510.050, or 510.060 or incest under KRS*  
9 *530.020(2)(b) or (c), and the termination was performed in accordance*  
10 *with subsection (1)(k) of Section 2 of this Act.*

11 (b) Except when a medical emergency exists that prevents compliance with one  
12 (1) or more of the following conditions, the affirmative defense set forth in  
13 subsection (2)(b) of this section ~~shall~~<sup>does</sup> not apply unless the physician  
14 who intentionally performs or induces or intentionally attempts to perform or  
15 induce the abortion complies with all of the following conditions:

16 1. The physician who intentionally performs or induces or intentionally  
17 attempts to perform or induce the abortion certifies in writing that, in the  
18 physician's reasonable medical judgment, based on the facts known to  
19 the physician at that time, the abortion is medically necessary to prevent  
20 the death 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 2. A different physician not professionally related to the physician  
24 described in subparagraph 1. of this paragraph certifies in writing that,  
25 in that different physician's reasonable medical judgment, based on the  
26 facts known to that different physician at that time, the abortion is  
27 medically necessary to prevent the death of the pregnant woman or to

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

1                   the unborn child immediately upon the child's complete expulsion or  
2                   extraction from the pregnant woman.

3 (4) The state Board of Medical Licensure ~~may~~<sup>shall</sup> revoke a physician's license to  
4 practice medicine in this state if the physician violates or fails to comply with this  
5 section.

6 (5) Any physician who intentionally performs or induces or intentionally attempts to  
7 perform or induce an abortion on a pregnant woman with actual knowledge that  
8 neither of the affirmative defenses set forth in subsection (2) of this section applies,  
9 or with a heedless indifference as to whether either affirmative defense applies, is  
10 liable in a civil action for compensatory and punitive damages and reasonable  
11 attorney's fees to any person, or the representative of the estate of any person  
12 including but not limited to an unborn child, who sustains injury, death, or loss to  
13 person or property as the result of the performance or inducement or the attempted  
14 performance or inducement of the abortion. In any action under this subsection, the  
15 court also may award any injunctive or other equitable relief that the court  
16 considers appropriate.

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

22 ➔Section 12. KRS 311.783 is amended to read as follows:

23 (1) 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 unless, prior to the performance or  
26 inducement of the abortion or the attempt to perform or induce the abortion, the  
27 physician determines, in the physician's reasonable medical judgment, the unborn

1 child's probable gestational age. The physician shall make that determination after  
 2 making inquiries of the pregnant woman and performing any medical examinations  
 3 or tests of the pregnant woman the physician considers necessary as a reasonably  
 4 prudent physician, knowledgeable about the case and medical conditions involved,  
 5 would consider necessary to determine the unborn child's probable gestational age.

6 (2) Except in a medical emergency that prevents compliance with this section, no  
 7 physician shall intentionally perform or induce or intentionally attempt to perform  
 8 or induce an abortion on a pregnant woman after the unborn child reaches the  
 9 probable gestational age of fifteen (15) weeks, or twenty-two (22) weeks when the  
 10 pregnancy is the result of rape under KRS 510.040, 510.050, or 510.060 or incest  
 11 under KRS 530.020(2)(b) or (c), without first entering the determination made in  
 12 subsection (1) of this section and the associated findings of the medical examination  
 13 and tests in the medical record of the pregnant woman.

14 (3) The state Board of Medical Licensure ~~may~~<sup>shall</sup> suspend a physician's license to  
 15 practice medicine in this state for a period of not less than six (6) months if the  
 16 physician violates this section.

17 (4) The physician shall submit a report on a form provided by the cabinet that includes  
 18 at a minimum the information required by KRS 213.101 and ~~;~~

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

20 ~~(b) The results of inquiries of the pregnant woman and any medical examinations~~  
 21 ~~or tests performed].~~

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

23 (1) No publicly owned hospital or other publicly owned health care facility shall  
 24 perform or permit the performance of abortions, except as provided in Section 2 of  
 25 this Act~~[to save the life of the pregnant woman].~~

26 (2) In the event that a publicly owned hospital or publicly owned health facility is  
 27 performing or about to perform an abortion in violation of subsection (1) of this

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

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

9 (4) No physician, nurse, staff member, or employee of a public or private hospital or  
10 employee of a public or private health care facility, who shall state in writing to  
11 ~~the~~<sub>[such]</sub> hospital or health care facility his or her objection to performing,  
12 participating in, or cooperating in, abortion on moral, religious, or professional  
13 grounds, be required to, or held liable for refusal to, perform, participate in, or  
14 cooperate in ~~the~~<sub>[such]</sub> abortion.

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

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

24 (b) Any person to impose penalties or take disciplinary action against, or to deny  
25 or limit public funds, licenses, certifications, degrees, or other approvals or  
26 documents of qualification to any physician, nurse,~~[or]~~ staff member, or  
27 employee of any hospital or health care facility, due to the willingness or

1 refusal of such physician, nurse, ~~or~~ staff member, or employee to perform or  
 2 participate in abortion by reason of objection to abortion ~~thereto~~ on moral,  
 3 religious, or professional grounds, or because of any statement or other  
 4 manifestation of attitude by the ~~such~~ physician, nurse, ~~or~~ staff member, or  
 5 employee with respect to abortion; or ~~;~~

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

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

18 (1) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth,  
 19 regardless of the length of gestation, shall be reported to the Vital Statistics Branch  
 20 by the person in charge of the institution within fifteen (15) ~~three (3)~~ days after the  
 21 end of the month in which the abortion occurred. If the abortion was performed  
 22 outside an institution, the attending physician shall prepare and file the report  
 23 within fifteen (15) ~~three (3)~~ days after the end of the month in which the abortion  
 24 occurred.

25 (2) The report shall include the patient's:

26 (a) Age;

27 (b) County of residence;

1 (c) Number of previous pregnancies, if known;

2 (d) Number of living children, if known;

3 (e) The type of abortion procedure performed; and

4 (f) The reason for the abortion, if known, including abuse, coercion,  
 5 harassment, trafficking, rape, or incest~~[all the information the physician is~~

6 ~~required to certify in writing or determine under KRS 311.731, 311.732,~~  
 7 ~~311.7704, 311.7705, 311.7706, 311.7707, 311.7735, 311.7736, 311.774,~~  
 8 ~~311.782, and 311.783, and at a minimum:~~

9 ~~(a) The full name and address of the physician who performed the abortion or~~  
 10 ~~provided the abortion inducing drug as defined in KRS 311.7731;~~

11 ~~(b) The address at which the abortion was performed or the address at which the~~  
 12 ~~abortion inducing drug was provided by a qualified physician, or the method~~  
 13 ~~of obtaining the abortion inducing drug if not provided by a qualified~~  
 14 ~~physician, including mail order, internet order, or by a telehealth provider in~~  
 15 ~~which case identifying information for the pharmacy, Web site address, or the~~  
 16 ~~telemedicine provider shall be included;~~

17 ~~(c) The names, serial numbers, National Drug Codes, lot numbers, and expiration~~  
 18 ~~dates of the specific abortion inducing drugs that were provided to the~~  
 19 ~~pregnant patient and the dates each were provided;~~

20 ~~(d) The full name and address of the referring physician, agency, or service, if~~  
 21 ~~any;~~

22 ~~(e) The pregnant patient's city or town, county, state, country of residence, and~~  
 23 ~~zip code;~~

24 ~~(f) The pregnant patient's age, race, and ethnicity;~~

25 ~~(g) The age or approximate age of the father, if known;~~

26 ~~(h) The total number and dates of each previous pregnancy, live birth, and~~  
 27 ~~abortion of the pregnant patient;~~

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

1 rendered;

2 ~~(r) The reason for the abortion, if known, including abuse, coercion, harassment,~~  
3 ~~or trafficking; and~~

4 ~~(s) Whether the pregnant patient was tested for sexually transmitted diseases~~  
5 ~~when providing the informed consent required in KRS 311.725 and 311.7735~~  
6 ~~twenty four (24) hours before the abortion procedure or tested at the time of~~  
7 ~~the abortion procedure, and if the pregnant patient tested positive, was treated~~  
8 ~~or referred for treatment and follow up care].~~

9 (3) The report shall not contain:

10 (a) The name of the pregnant patient;

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

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

15 ~~(4) If a person other than the physician described in this subsection makes or~~  
16 ~~maintains a record required by KRS 311.732, 311.7704, 311.7705, 311.7706, or~~  
17 ~~311.7707 on the physician's behalf or at the physician's direction, that person shall~~  
18 ~~comply with the reporting requirement described in this subsection as if the person~~  
19 ~~were the physician.~~

20 ~~(5) Each prescription issued for an abortion inducing drug as defined in KRS 311.7731~~  
21 ~~for which the primary indication is the induction of abortion as defined in KRS~~  
22 ~~213.011 shall be reported to the Vital Statistics Branch within three (3) days after~~  
23 ~~the end of the month in which the prescription was issued as required by KRS~~  
24 ~~311.774, but the report shall not include information which will identify the woman~~  
25 ~~involved or anyone who may be picking up the prescription on behalf of the~~  
26 ~~woman.~~

27 ~~(6) The name of the person completing the report and the reporting institution shall not~~

1 be subject to disclosure under KRS 61.870 to 61.884.

2 ~~(5)~~~~(7)~~ By September 30 of each year, the Vital Statistics Branch shall issue a public  
3 report that provides statistics on all data collected, including the type of abortion  
4 procedure used, for the previous calendar year compiled from all of the reports  
5 covering that calendar year submitted to the cabinet in accordance with this section  
6 for each of the items listed in this section.~~[ Each annual report shall also provide~~  
7 ~~statistics for all previous calendar years in which this section was in effect, adjusted~~  
8 ~~to reflect any additional information from late or corrected reports.]~~ The Vital  
9 Statistics Branch shall ensure that none of the information included in the report  
10 could reasonably lead to the identification of any pregnant woman upon whom an  
11 abortion was performed or attempted. Each annual report shall be made available  
12 on the cabinet's website~~[Web site]~~.

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

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

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

25 ~~(9) Intentional falsification of any report required under this section is a Class A~~  
26 ~~misdemeanor.]~~

27 ~~(6)~~~~(10)~~ The Vital Statistics Branch shall promulgate administrative regulations in

1 accordance with KRS Chapter 13A to assist in compliance with this section.}]

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

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

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

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

18 ~~1. The audit required in this subsection, including any identified reporting~~  
 19 ~~deficiencies; and~~

20 ~~2. All abortion facility inspections, including any violations of KRS~~  
 21 ~~216B.0431 and 216B.0435.]~~

22 ➔Section 15. KRS 311.990 is amended to read as follows:

23 (1) Any person who violates KRS 311.250 shall be guilty of a violation.

24 (2) Any college or college professor ~~thereof~~ violating the provisions of KRS 311.300  
 25 to 311.350 shall be civilly liable on his or her bond for a sum not less than one  
 26 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each  
 27 violation, which may be recovered by an action in the name of the Commonwealth.

- 1 (3) Any person who presents to the county clerk for the purpose of registration any  
2 license which has been fraudulently obtained, or obtains any license under KRS  
3 311.380 to 311.510 by false or fraudulent statement or representation, or practices  
4 podiatry under a false or assumed name or falsely impersonates another practitioner  
5 or former practitioner of a like or different name, or aids and abets any person in the  
6 practice of podiatry within the state without conforming to the requirements of KRS  
7 311.380 to 311.510, or otherwise violates or neglects to comply with any of the  
8 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.  
9 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to  
10 311.510 shall be considered a separate offense.
- 11 (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- 12 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under  
13 this subsection of a holder of a license or permit shall result automatically in  
14 permanent revocation of ~~the~~<sup>such</sup> license or permit.
- 15 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or  
16 interfering with the board or any of its members, or of any officer, agent, inspector,  
17 or investigator of the board or the Cabinet for Health and Family Services, in the  
18 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class  
19 A misdemeanor.
- 20 (7) Each violation of KRS 311.375(1) shall, for the first offense, be a Class B  
21 misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- 22 (8) Each violation of KRS 311.375(2) shall, for the first offense, be a violation, and, for  
23 each subsequent offense, be a Class B misdemeanor.
- 24 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a  
25 separate offense.
- 26 (10) (a) Any person who intentionally or knowingly performs an abortion contrary to  
27 the requirements of KRS 311.723(1) shall be guilty of a Class D felony.

- 1 (b) Any person who intentionally, knowingly, or recklessly violates the  
2 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- 3 (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS  
4 311.765 shall be guilty of a Class D felony. However, a physician shall  
5 not be guilty of the criminal offense if the partial-birth abortion was  
6 necessary to save the life of the mother whose life was endangered by a  
7 physical disorder, illness, or injury.
- 8 2. A physician may seek a hearing before the State Board of Medical  
9 Licensure on whether the physician's conduct was necessary to save the  
10 life of the mother whose life was endangered by a physical disorder,  
11 illness, or injury. The board's findings, decided by majority vote of a  
12 quorum, shall be admissible at the trial of the physician. The board shall  
13 promulgate administrative regulations to carry out the provisions of this  
14 subparagraph.
- 15 3. Upon a motion of the physician, the court shall delay the beginning of  
16 the trial for not more than thirty (30) days to permit the hearing, referred  
17 to in subparagraph 2. of this paragraph, to occur.
- 18 (b) Any person other than a physician who performs a partial-birth abortion shall  
19 not be prosecuted under this subsection but shall be prosecuted under  
20 provisions of law which prohibit any person other than a physician from  
21 performing any abortion.
- 22 (c) No penalty shall be assessed against the woman upon whom the partial-birth  
23 abortion is performed or attempted to be performed.
- 24 (12) (a) Except as provided in KRS 311.732(12), any person who intentionally,  
25 knowingly, or recklessly performs an abortion upon a minor without obtaining  
26 the required consent pursuant to KRS 311.732 shall be guilty of a Class D  
27 felony.

1 (b) Except as provided in paragraph (a) of this subsection, any person who  
2 intentionally or knowingly fails to conform to any requirement of KRS  
3 311.732 is guilty of a Class A misdemeanor.

4 (c) Any person who negligently releases information or documents which are  
5 confidential under KRS 311.732 is guilty of a Class B misdemeanor.

6 ~~(13) [Any person who performs an abortion upon a married woman either with  
7 knowledge or in reckless disregard of whether KRS 311.735 applies to her and who  
8 intentionally, knowingly, or recklessly fails to conform to the requirements of KRS  
9 311.735 shall be guilty of a Class D felony.]~~

10 ~~(14) [Any person convicted of violating KRS 311.750 shall be guilty of a Class B  
11 felony.]~~

12 ~~(14)~~<sup>(15)</sup> Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

13 ~~(15)~~<sup>(16)</sup> Any person who violates KRS 311.770 shall be guilty of a Class D felony.

14 ~~(16)~~<sup>(17)</sup> Except as provided in KRS 311.787(3), any person who intentionally violates  
15 KRS 311.787 shall be guilty of a Class D felony.

16 ~~(17)~~<sup>(18)</sup> A person convicted of violating KRS 311.780 shall be guilty of a Class C  
17 felony.

18 ~~(18)~~<sup>(19)</sup> Except as provided in KRS 311.782(6), any person who intentionally violates  
19 KRS 311.782 shall be guilty of a Class D felony.

20 ~~(19)~~<sup>(20)</sup> Any person who violates KRS 311.783(1) shall be guilty of a Class B  
21 misdemeanor.

22 ~~(20)~~<sup>(21)</sup> Any person who violates KRS 311.7705(1) is guilty of a Class D felony.

23 ~~(21)~~<sup>(22)</sup> Any person who violates KRS 311.7706(1) is guilty of a Class D felony.

24 ~~(22)~~<sup>(23)</sup> Except as provided in KRS 311.731(7), any person who violates KRS  
25 311.731(2) shall be guilty of a Class D felony.

26 ~~(23)~~<sup>(24)</sup> Any physician, physician assistant, advanced practice registered nurse, nurse,  
27 or other healthcare provider who intentionally violates KRS 311.823(2) shall be

1 guilty of a Class D felony. As used in this subsection, "healthcare provider" has the  
2 same meaning as in KRS 311.821.

3 ~~(24)~~~~(25)~~ Any person who violates KRS 311.810 shall be guilty of a Class A  
4 misdemeanor.

5 ~~(25)~~~~(26)~~ Any professional medical association or society, licensed physician, or  
6 hospital or hospital medical staff who violates~~shall have violated the provisions of~~  
7 KRS 311.606 shall be guilty of a Class B misdemeanor.

8 ~~(26)~~~~(27)~~ Any administrator, officer, or employee of a publicly owned hospital or  
9 publicly owned health care facility who performs or permits the performance of  
10 abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

11 ~~(27)~~~~(28)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

12 ~~(28)~~~~(29)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a  
13 Class A misdemeanor.

14 ~~(29)~~~~(30)~~ Any person who fails to test organs, skin, or other human tissue which is to be  
15 transplanted, or violates the confidentiality provisions required by KRS 311.281,  
16 shall be guilty of a Class A misdemeanor.

17 ~~(30)~~~~(31)~~ Any person who sells or makes a charge for any transplantable organ shall be  
18 guilty of a Class D felony.

19 ~~(31)~~~~(32)~~ Any person who offers remuneration for any transplantable organ for use in  
20 transplantation into himself or herself shall be fined not less than five thousand  
21 dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

22 ~~(32)~~~~(33)~~ Any person brokering the sale or transfer of any transplantable organ shall be  
23 guilty of a Class C felony.

24 ~~(33)~~~~(34)~~ Any person charging a fee associated with the transplantation of a  
25 transplantable organ in excess of the direct and indirect costs of procuring,  
26 distributing, or transplanting the transplantable organ shall be fined not less than  
27 fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars

1 (\$500,000).

2 ~~(34)~~~~(35)~~ Any hospital performing transplantable organ transplants which knowingly  
3 fails to report the possible sale, purchase, or brokering of a transplantable organ  
4 shall be fined not less than ten thousand dollars (\$10,000) or more than fifty  
5 thousand dollars (\$50,000).

6 ~~(35)~~~~(36)~~ (a) Any physician or qualified technician who violates KRS 311.727 shall  
7 be fined not more than one hundred thousand dollars (\$100,000) for a first  
8 offense and not more than two hundred fifty thousand dollars (\$250,000) for  
9 each subsequent offense.

10 (b) In addition to the fine, the court shall report the violation of any physician, in  
11 writing, to the Kentucky Board of Medical Licensure for such action and  
12 discipline as the board deems appropriate.

13 ~~(36)~~~~(37)~~ Any person who violates KRS 311.691 shall be guilty of a Class B  
14 misdemeanor for the first offense, and a Class A misdemeanor for a second or  
15 subsequent offense. In addition to any other penalty imposed for that violation, the  
16 board may, through the Attorney General, petition a Circuit Court to enjoin the  
17 person who is violating KRS 311.691 from practicing genetic counseling in  
18 violation of the requirements of KRS 311.690 to 311.700.

19 ~~(37)~~~~(38)~~ Any person convicted of violating KRS 311.728 shall be guilty of a Class D  
20 felony.

21 ~~(38)~~~~(39)~~ (a) A person who intentionally, knowingly, or recklessly violates KRS  
22 311.7731 to 311.7739 is guilty of a Class D felony.

23 (b) No criminal penalty may be assessed against a pregnant patient upon whom a  
24 drug-induced abortion is attempted, induced, or performed.

25 ➔Section 16. The following KRS section is repealed:

26 311.735 Notice to spouse -- Exceptions -- Civil remedies.

27 ➔Section 17. This Act may be cited as the Compassionate Care Act.