

1 AN ACT relating to abortion and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
4 TO READ AS FOLLOWS:

5 *As used in Sections 1 to 11 of this Act:*

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

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

4 (15) "Standard medical practice" means the degree of skill, care, and diligence that a
5 physician of the same medical specialty would employ in like circumstances. As
6 applied to the method used to determine the presence of a fetal heartbeat for
7 purposes of Section 4 of this Act, "standard medical practice" includes
8 employing the appropriate means of detection depending on the estimated
9 gestational age of the fetus and the condition of the woman and her pregnancy;
10 and

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

13 ➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
14 TO READ AS FOLLOWS:

15 The General Assembly finds and declares, according to contemporary medical
16 research, all of the following:

17 (1) As many as thirty percent (30%) of natural pregnancies end in spontaneous
18 miscarriage;

19 (2) Less than five percent (5%) of all natural pregnancies end in spontaneous
20 miscarriage after detection of fetal cardiac activity;

21 (3) Over ninety percent (90%) of intrauterine pregnancies survive the first trimester
22 if cardiac activity is detected in the gestational sac;

23 (4) Nearly ninety percent (90%) of in vitro pregnancies do not survive the first
24 trimester where cardiac activity is not detected in the gestational sac;

25 (5) Fetal heartbeat, therefore, has become a key medical predictor that an unborn
26 human individual will reach live birth;

27 (6) Cardiac activity begins at a biologically identifiable moment in time, normally

1 when the fetal heart is formed in the gestational sac;

2 (7) The Commonwealth of Kentucky has legitimate interests from the outset of the
3 pregnancy in protecting the health of the woman and the life of an unborn
4 human individual who may be born; and

5 (8) In order to make an informed choice about whether to continue her pregnancy,
6 the pregnant woman has a legitimate interest in knowing the likelihood of the
7 fetus surviving to full-term birth based upon the presence of cardiac activity.

8 ➔SECTION 3. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
9 TO READ AS FOLLOWS:

10 Sections 4 to 6 of this Act apply only to intrauterine pregnancies.

11 ➔SECTION 4. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
12 TO READ AS FOLLOWS:

13 (1) (a) A person who intends to perform or induce an abortion on a pregnant
14 woman shall determine whether there is a detectable fetal heartbeat of the
15 unborn human individual the pregnant woman is carrying. The method of
16 determining the presence of a fetal heartbeat shall be consistent with the
17 person's good-faith understanding of standard medical practice, provided
18 that if administrative regulations have been promulgated under subsection
19 (2) of this section, the method chosen shall be one that is consistent with the
20 regulations.

21 (b) The person who determines the presence or absence of a fetal heartbeat
22 shall record in the pregnant woman's medical record the estimated
23 gestational age of the unborn human individual, the method used to test for
24 a fetal heartbeat, the date and time of the test, and the results of the test.

25 (c) The person who performs the examination for the presence of a fetal
26 heartbeat shall give the pregnant woman the option to view or hear the fetal
27 heartbeat.

1 (2) The secretary of the Cabinet for Health and Family Services may promulgate
2 administrative regulations specifying the appropriate methods of performing an
3 examination for the purpose of determining the presence of a fetal heartbeat of
4 an unborn human individual based on standard medical practice. The
5 regulations shall require only that an examination shall be performed externally.

6 (3) A person is not in violation of subsection (1) or (2) of this section if:

7 (a) The person has performed an examination for the purpose of determining
8 the presence of a fetal heartbeat of an unborn human individual utilizing
9 standard medical practice;

10 (b) The examination does not reveal a fetal heartbeat or the person has been
11 informed by a physician who has performed the examination for a fetal
12 heartbeat that the examination did not reveal a fetal heartbeat; and

13 (c) The person notes in the pregnant woman's medical records the procedure
14 utilized to detect the presence of a fetal heartbeat.

15 ➔SECTION 5. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
16 TO READ AS FOLLOWS:

17 (1) Except as provided in subsection (2) of this section, no person shall intentionally
18 perform or induce an abortion on a pregnant woman before determining in
19 accordance with subsection (1) of Section 4 of this Act whether the unborn
20 human individual the pregnant woman is carrying has a detectable fetal
21 heartbeat.

22 (2) (a) Subsection (1) of this section shall not apply to a physician who performs or
23 induces the abortion if the physician believes that a medical emergency
24 exists that prevents compliance with subsection (1) of this section.

25 (b) A physician who performs or induces an abortion on a pregnant woman
26 based on the exception in paragraph (a) of this subsection shall make
27 written notations in the pregnant woman's medical records of both of the

1 following:

2 1. The physician's belief that a medical emergency necessitating the
3 abortion existed; and

4 2. The medical condition of the pregnant woman that prevented
5 compliance with subsection (1) of this section.

6 The physician shall maintain a copy of the notations in the physician's own
7 records for at least seven (7) years from the date the notations were made.

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

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

17 ➔SECTION 6. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
18 TO READ AS FOLLOWS:

19 (1) Except as provided in subsection (2) of this section, no person shall intentionally
20 perform or induce an abortion on a pregnant woman with the specific intent of
21 causing or abetting the termination of the life of the unborn human individual
22 the pregnant woman is carrying and whose fetal heartbeat has been detected in
23 accordance with subsection (1) of Section 4 of this Act.

24 (2) (a) Subsection (1) of this section shall not apply to a physician who performs a
25 medical procedure that, in the physician's reasonable medical judgment, is
26 designed or intended to prevent the death of the pregnant woman or to
27 prevent a serious risk of the substantial and irreversible impairment of a

1 major bodily function of the pregnant woman.

2 (b) A physician who performs a medical procedure as described in paragraph

3 (a) of this subsection shall, in writing:

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

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

15 (c) The physician shall place the written document required by paragraph (b)
16 of this subsection in the pregnant woman's medical records. The physician
17 shall maintain a copy of the document in the physician's own records for at
18 least seven (7) years from the date the document is created.

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

22 (4) A pregnant woman on whom an abortion is intentionally performed or induced
23 in violation of subsection (1) of this section is not guilty of violating subsection
24 (1) of this section or of attempting to commit, conspiring to commit, or complicity
25 in committing a violation of subsection (1) of this section. In addition, the
26 pregnant woman is not subject to a civil penalty based on the abortion being
27 performed or induced in violation of subsection (1) of this section.

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

5 ➔SECTION 7. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
6 TO READ AS FOLLOWS:

7 (1) The provisions of this section are independent of the requirements of Sections 4
8 to 6 of this Act.

9 (2) A person who performs or induces an abortion on a pregnant woman shall:

10 (a) If the reason for the abortion purported is to preserve the health of the
11 pregnant woman, specify in a written document the medical condition that
12 the abortion is asserted to address and the medical rationale for the person's
13 conclusion that the abortion is necessary to address that condition; or

14 (b) If the reason for the abortion is other than to preserve the health of the
15 pregnant woman, specify in a written document that maternal health is not
16 the purpose of the abortion.

17 (3) The person who specifies the information in the document described in
18 subsection (2) of this section shall place the document in the pregnant woman's
19 medical records. The person who specifies the information shall maintain a copy
20 of the document in the person's own records for at least seven (7) years from the
21 date the document is created.

22 ➔SECTION 8. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
23 TO READ AS FOLLOWS:

24 Nothing in Sections 1 to 11 of this Act prohibits the sale, use, prescription, or
25 administration of a drug, device, or chemical that is designed for contraceptive
26 purposes.

27 ➔SECTION 9. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED

1 TO READ AS FOLLOWS:

2 (1) A woman on whom an abortion was performed or induced in violation of
3 subsection (1) of Section 5 of this Act or subsection (1) of Section 6 of this Act
4 may file a civil action for the wrongful death of her unborn child.

5 (2) A woman who prevails in an action filed under subsection (1) of this section shall
6 receive from the person who performed or induced the abortion:

7 (a) Damages in an amount equal to ten thousand dollars (\$10,000) or an
8 amount determined by the trier of fact after consideration of the evidence at
9 the mother's election at any time prior to final judgment subject to the same
10 defenses and requirements of proof, except any requirement of live birth, as
11 would apply to a suit for the wrongful death of a child who had been born
12 alive; and

13 (b) Court costs and reasonable attorney's fees.

14 (3) A determination that subsection (1) of Section 5 of this Act or subsection (1) of
15 Section 6 of this Act is unconstitutional shall be a defense to an action filed
16 under subsection (1) of this section alleging that the defendant violated the
17 subsection that was determined to be unconstitutional.

18 (4) If the defendant in an action filed under subsection (1) of this section prevails
19 and:

20 (a) The court finds that the commencement of the action constitutes frivolous
21 conduct;

22 (b) The court's finding in paragraph (a) of this subsection is not based on that
23 court or another court determining that subsection (1) of Section 5 of this
24 Act or subsection (1) of Section 6 of this Act of this Act is unconstitutional;
25 and

26 (c) The court finds that the defendant was adversely affected by the frivolous
27 conduct;

1 *the court shall award reasonable attorney's fees to the defendant.*

2 ➔SECTION 10. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
3 TO READ AS FOLLOWS:

4 *The Cabinet for Health and Family Services shall inspect the medical records from*
5 *any facility that performs abortions to ensure that the physicians or other persons who*
6 *perform abortions at that facility are in compliance with the reporting requirements*
7 *under Section 15 of this Act. The facility shall make the medical records available for*
8 *inspection to the Cabinet for Health and Family Services but shall not release any*
9 *personal medical information in the medical records that is prohibited by law.*

10 ➔SECTION 11. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED
11 TO READ AS FOLLOWS:

12 *(1) It is the intent of the General Assembly that a court judgment or order*
13 *suspending enforcement of any provision of Sections 1 to 11 of this Act is not to*
14 *be regarded as tantamount to repeal of that provision.*

15 *(2) (a) After the issuance of a decision by the Supreme Court of the United States*
16 *overruling *Roe v. Wade*, 410 U.S. 113 (1973), the issuance of any other*
17 *court order or judgment restoring, expanding, or clarifying the authority of*
18 *states to prohibit or regulate abortion entirely or in part, or the effective*
19 *date of an amendment to the Constitution of the United States restoring,*
20 *expanding, or clarifying the authority of states to prohibit or regulate*
21 *abortion entirely or in part, the Attorney General may apply to the pertinent*
22 *state or federal court for either or both of the following:*

23 *1. A declaration that any one (1) or more sections specified in subsection*
24 *(1) of this section are constitutional; or*

25 *2. A judgment or order lifting an injunction against the enforcement of*
26 *any one (1) or more sections specified in subsection (1) of this section.*

27 *(b) If the Attorney General fails to apply for the relief described in paragraph*

1 *(a) of this subsection within thirty (30) days of an event described in*
 2 *paragraph (a) of this subsection, any Commonwealth or county attorney*
 3 *may apply to the appropriate state or federal court for such relief.*

4 *(3) If any provision of Sections 1 to 11 of this Act are held invalid, or if the*
 5 *application of such provision to any person or circumstance is held invalid, the*
 6 *invalidity of that provision does not affect any other provisions or applications of*
 7 *Sections 1 to 11 of this Act that can be given effect without the invalid provision*
 8 *or application, and to this end the provisions of Sections 1 to 11 of this Act are*
 9 *severable as provided in KRS 446.090. In particular, it is the intent of the General*
 10 *Assembly that:*

11 *(a) Any invalidity or potential invalidity of a provision of Sections 1 to 11 of this*
 12 *Act is not to impair the immediate and continuing enforceability of the*
 13 *remaining provisions; and*

14 *(b) The provisions of Sections 1 to 11 of this Act are not to have the effect of*
 15 *repealing or limiting any other laws of this state, except as specified by*
 16 *Sections 1 to 11 of this Act.*

17 ➔Section 12. KRS 311.595 is amended to read as follows:

18 If the power has not been transferred by statute to some other board, commission, or
 19 agency of this state, the board may deny an application or reregistration for a license;
 20 place a licensee on probation for a period not to exceed five (5) years; suspend a license
 21 for a period not to exceed five (5) years; limit or restrict a license for an indefinite period;
 22 or revoke any license heretofore or hereafter issued by the board, upon proof that the
 23 licensee has:

24 (1) Knowingly made or presented, or caused to be made or presented, any false,
 25 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
 26 connection with an application for a license or permit;

27 (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion,

- 1 or conspiracy in connection with an examination for a license;
- 2 (3) Committed, procured, or aided in the procurement of an unlawful abortion,
3 including a partial-birth abortion;
- 4 (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or
5 without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if
6 in accordance with KRS Chapter 335B;
- 7 (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a
8 patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or
9 been found by the board to have had sexual contact as defined in KRS 510.010(7)
10 with a patient while the patient was under the care of the physician;
- 11 (6) Become addicted to a controlled substance;
- 12 (7) Become a chronic or persistent alcoholic;
- 13 (8) Been unable or is unable to practice medicine according to acceptable and
14 prevailing standards of care by reason of mental or physical illness or other
15 condition including but not limited to physical deterioration that adversely affects
16 cognitive, motor, or perceptive skills, or by reason of an extended absence from the
17 active practice of medicine;
- 18 (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely
19 to deceive, defraud, or harm the public or any member thereof;
- 20 (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false
21 statement in any document executed in connection with the practice of his
22 profession;
- 23 (11) Employed, as a practitioner of medicine or osteopathy in the practice of his
24 profession in this state, any person not duly licensed or otherwise aided, assisted, or
25 abetted the unlawful practice of medicine or osteopathy or any other healing art;
- 26 (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the
27 violation of, or conspired to violate any provision or term of any medical practice

- 1 act, including but not limited to the code of conduct promulgated by the board under
2 KRS 311.601 or any other valid regulation of the board;
- 3 (13) Violated any agreed order, letter of agreement, final order, or emergency order
4 issued by the board;
- 5 (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a
6 false or assumed name, or impersonated another practitioner of a like, similar, or
7 different name;
- 8 (15) Obtained a fee or other thing of value on the fraudulent representation that a
9 manifestly incurable condition could be cured;
- 10 (16) Willfully violated a confidential communication;
- 11 (17) Had his license to practice medicine or osteopathy in any other state, territory, or
12 foreign nation revoked, suspended, restricted, or limited or has been subjected to
13 other disciplinary action by the licensing authority thereof. This subsection shall not
14 require relitigation of the disciplinary action;
- 15 (18) Failed or refused, without legal justification, to practice medicine in a rural area of
16 this state in violation of a valid medical scholarship loan contract with the trustees
17 of the rural Kentucky medical scholarship fund;
- 18 (19) Given or received, directly or indirectly, from any person, firm, or corporation, any
19 fee, commission, rebate, or other form of compensation for sending, referring, or
20 otherwise inducing a person to communicate with a person licensed under KRS
21 311.530 to 311.620 in his professional capacity or for any professional services not
22 actually and personally rendered; provided, however, that nothing contained in this
23 subsection shall prohibit persons holding valid and current licenses under KRS
24 311.530 to 311.620 from practicing medicine in partnership or association or in a
25 professional service corporation authorized by KRS Chapter 274, as now or
26 hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees
27 and moneys received by them or by the partnership, corporation, or association in

1 accordance with the partnership agreement or the policies of the board of directors
2 of the corporation or association. Nothing contained in this subsection shall
3 abrogate the right of two (2) or more persons holding valid and current licenses
4 under KRS 311.530 to 311.620 to receive adequate compensation for concurrently
5 rendering professional care to a single patient and divide a fee, if the patient has full
6 knowledge of this division and if the division is made in proportion to the services
7 performed and responsibility assumed by each;

8 (20) Been removed, suspended, expelled, or disciplined by any professional medical
9 association or society when the action was based upon what the association or
10 society found to be unprofessional conduct, professional incompetence, malpractice,
11 or a violation of any provision of KRS Chapter 311. This subsection shall not
12 require relitigation of the disciplinary action;

13 (21) Been disciplined by a licensed hospital or medical staff of the hospital, including
14 removal, suspension, limitation of hospital privileges, failing to renew privileges for
15 cause, resignation of privileges under pressure or investigation, or other disciplinary
16 action if the action was based upon what the hospital or medical staff found to be
17 unprofessional conduct, professional incompetence, malpractice, or a violation of
18 any provisions of KRS Chapter 311. This subsection shall not require relitigation of
19 the disciplinary action;~~{or}~~

20 (22) Failed to comply with the requirements of KRS 213.101, 311.782, or 311.783 or
21 failed to submit to the Vital Statistics Branch in accordance with a court order a
22 complete report as described in KRS 213.101;

23 **(23) Failed to comply with any of the requirements regarding making or maintaining**
24 **medical records or documents described in Section 4 or 7 of this Act; or**

25 **(24) Failed to comply with the requirements of Section 5 or 6 of this Act.**

26 ➔Section 13. KRS 311.990 (Effective until July 1, 2019) is amended to read as
27 follows:

- 1 (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- 2 (2) Any college or professor thereof violating the provisions of KRS 311.300 to
3 311.350 shall be civilly liable on his bond for a sum not less than one hundred
4 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,
5 which may be recovered by an action in the name of the Commonwealth.
- 6 (3) Any person who presents to the county clerk for the purpose of registration any
7 license which has been fraudulently obtained, or obtains any license under KRS
8 311.380 to 311.510 by false or fraudulent statement or representation, or practices
9 podiatry under a false or assumed name or falsely impersonates another practitioner
10 or former practitioner of a like or different name, or aids and abets any person in the
11 practice of podiatry within the state without conforming to the requirements of KRS
12 311.380 to 311.510, or otherwise violates or neglects to comply with any of the
13 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.
14 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to
15 311.510 shall be considered a separate offense.
- 16 (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- 17 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under
18 this subsection of a holder of a license or permit shall result automatically in
19 permanent revocation of such license or permit.
- 20 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or
21 interfering with the board or any of its members, or of any officer, agent, inspector,
22 or investigator of the board or the Cabinet for Health and Family Services, in the
23 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class
24 A misdemeanor.
- 25 (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a
26 Class B misdemeanor, and, for each subsequent offense shall be a Class A
27 misdemeanor.

- 1 (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a
2 violation, and, for each subsequent offense, be a Class B misdemeanor.
- 3 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a
4 separate offense.
- 5 (10) (a) Any person who intentionally or knowingly performs an abortion contrary to
6 the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
- 7 (b) Any person who intentionally, knowingly, or recklessly violates the
8 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- 9 (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS
10 311.765 shall be guilty of a Class D felony. However, a physician shall
11 not be guilty of the criminal offense if the partial-birth abortion was
12 necessary to save the life of the mother whose life was endangered by a
13 physical disorder, illness, or injury.
- 14 2. A physician may seek a hearing before the State Board of Medical
15 Licensure on whether the physician's conduct was necessary to save the
16 life of the mother whose life was endangered by a physical disorder,
17 illness, or injury. The board's findings, decided by majority vote of a
18 quorum, shall be admissible at the trial of the physician. The board shall
19 promulgate administrative regulations to carry out the provisions of this
20 subparagraph.
- 21 3. Upon a motion of the physician, the court shall delay the beginning of
22 the trial for not more than thirty (30) days to permit the hearing, referred
23 to in subparagraph 2. of this paragraph, to occur.
- 24 (b) Any person other than a physician who performs a partial-birth abortion shall
25 not be prosecuted under this subsection but shall be prosecuted under
26 provisions of law which prohibit any person other than a physician from
27 performing any abortion.

- 1 (c) No penalty shall be assessed against the woman upon whom the partial-birth
2 abortion is performed or attempted to be performed.
- 3 (12) Any person who intentionally performs an abortion with knowledge that, or with
4 reckless disregard as to whether, the person upon whom the abortion is to be
5 performed is an unemancipated minor, and who intentionally or knowingly fails to
6 conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- 7 (13) Any person who negligently releases information or documents which are
8 confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- 9 (14) Any person who performs an abortion upon a married woman either with
10 knowledge or in reckless disregard of whether KRS 311.735 applies to her and who
11 intentionally, knowingly, or recklessly fails to conform to the requirements of KRS
12 311.735 shall be guilty of a Class D felony.
- 13 (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- 14 (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- 15 (17) Any person who violates KRS 311.770 shall be guilty of a Class D felony.
- 16 (18) Except as provided in KRS 311.787(3), any person who intentionally violates KRS
17 311.787 shall be guilty of a Class D felony.
- 18 (19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- 19 (20) Except as provided in KRS 311.782(6), any person who intentionally violates KRS
20 311.782 shall be guilty of a Class D felony.
- 21 (21) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.
- 22 (22) **Any person who violates subsection (1) of Section 5 of this Act is guilty of a Class**
23 **D felony.**
- 24 (23) **Any person who violates subsection (1) of Section 6 of this Act is guilty of a Class**
25 **D felony.**
- 26 (24) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- 27 (25)~~(23)~~ Any professional medical association or society, licensed physician, or

1 hospital or hospital medical staff who shall have violated the provisions of KRS
2 311.606 shall be guilty of a Class B misdemeanor.

3 ~~(26)~~~~(24)~~ Any administrator, officer, or employee of a publicly owned hospital or
4 publicly owned health care facility who performs or permits the performance of
5 abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

6 ~~(27)~~~~(25)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

7 ~~(28)~~~~(26)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a
8 Class A misdemeanor.

9 ~~(29)~~~~(27)~~ (a) Any person who fails to test organs, skin, or other human tissue which is
10 to be transplanted, or violates the confidentiality provisions required by KRS
11 311.281, shall be guilty of a Class A misdemeanor.

12 (b) Any person who has human immunodeficiency virus infection, who knows he
13 is infected with human immunodeficiency virus, and who has been informed
14 that he may communicate the infection by donating organs, skin, or other
15 human tissue who donates organs, skin, or other human tissue shall be guilty
16 of a Class D felony.

17 ~~(30)~~~~(28)~~ Any person who sells or makes a charge for any transplantable organ shall be
18 guilty of a Class D felony.

19 ~~(31)~~~~(29)~~ Any person who offers remuneration for any transplantable organ for use in
20 transplantation into himself shall be fined not less than five thousand dollars
21 (\$5,000) nor more than fifty thousand dollars (\$50,000).

22 ~~(32)~~~~(30)~~ Any person brokering the sale or transfer of any transplantable organ shall be
23 guilty of a Class C felony.

24 ~~(33)~~~~(31)~~ 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)~~~~(32)~~ 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)~~~~(33)~~ (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)~~~~(34)~~ 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 ➔Section 14. KRS 311.990 (Effective July 1, 2019) is amended to read as
20 follows:

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

22 (2) Any college or professor thereof violating the provisions of KRS 311.300 to
23 311.350 shall be civilly liable on his bond for a sum not less than one hundred
24 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,
25 which may be recovered by an action in the name of the Commonwealth.

26 (3) Any person who presents to the county clerk for the purpose of registration any
27 license which has been fraudulently obtained, or obtains any license under KRS

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

1 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

2 (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS
3 311.765 shall be guilty of a Class D felony. However, a physician shall
4 not be guilty of the criminal offense if the partial-birth abortion was
5 necessary to save the life of the mother whose life was endangered by a
6 physical disorder, illness, or injury.

7 2. A physician may seek a hearing before the State Board of Medical
8 Licensure on whether the physician's conduct was necessary to save the
9 life of the mother whose life was endangered by a physical disorder,
10 illness, or injury. The board's findings, decided by majority vote of a
11 quorum, shall be admissible at the trial of the physician. The board shall
12 promulgate administrative regulations to carry out the provisions of this
13 subparagraph.

14 3. Upon a motion of the physician, the court shall delay the beginning of
15 the trial for not more than thirty (30) days to permit the hearing, referred
16 to in subparagraph 2. of this paragraph, to occur.

17 (b) Any person other than a physician who performs a partial-birth abortion shall
18 not be prosecuted under this subsection but shall be prosecuted under
19 provisions of law which prohibit any person other than a physician from
20 performing any abortion.

21 (c) No penalty shall be assessed against the woman upon whom the partial-birth
22 abortion is performed or attempted to be performed.

23 (12) Any person who intentionally performs an abortion with knowledge that, or with
24 reckless disregard as to whether, the person upon whom the abortion is to be
25 performed is an unemancipated minor, and who intentionally or knowingly fails to
26 conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

27 (13) Any person who negligently releases information or documents which are

- 1 confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- 2 (14) Any person who performs an abortion upon a married woman either with
3 knowledge or in reckless disregard of whether KRS 311.735 applies to her and who
4 intentionally, knowingly, or recklessly fails to conform to the requirements of KRS
5 311.735 shall be guilty of a Class D felony.
- 6 (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- 7 (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- 8 (17) Any person who violates KRS 311.770 shall be guilty of a Class D felony.
- 9 (18) Except as provided in KRS 311.787(3), any person who intentionally violates KRS
10 311.787 shall be guilty of a Class D felony.
- 11 (19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- 12 (20) Except as provided in KRS 311.782(6), any person who intentionally violates KRS
13 311.782 shall be guilty of a Class D felony.
- 14 (21) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.
- 15 (22) **Any person who violates subsection (1) of Section 5 of this Act is guilty of a Class**
16 **D felony.**
- 17 **(23) Any person who violates subsection (1) of Section 6 of this Act is guilty of a Class**
18 **D felony.**
- 19 **(24)** Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- 20 **(25)**~~(23)~~ Any professional medical association or society, licensed physician, or
21 hospital or hospital medical staff who shall have violated the provisions of KRS
22 311.606 shall be guilty of a Class B misdemeanor.
- 23 **(26)**~~(24)~~ Any administrator, officer, or employee of a publicly owned hospital or
24 publicly owned health care facility who performs or permits the performance of
25 abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- 26 **(27)**~~(25)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.
- 27 **(28)**~~(26)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a

1 Class A misdemeanor.

2 ~~(29)~~~~(27)~~ (a) Any person who fails to test organs, skin, or other human tissue which is
3 to be transplanted, or violates the confidentiality provisions required by KRS
4 311.281, shall be guilty of a Class A misdemeanor.

5 (b) Any person who has human immunodeficiency virus infection, who knows he
6 is infected with human immunodeficiency virus, and who has been informed
7 that he may communicate the infection by donating organs, skin, or other
8 human tissue who donates organs, skin, or other human tissue shall be guilty
9 of a Class D felony.

10 ~~(30)~~~~(28)~~ Any person who sells or makes a charge for any transplantable organ shall be
11 guilty of a Class D felony.

12 ~~(31)~~~~(29)~~ Any person who offers remuneration for any transplantable organ for use in
13 transplantation into himself shall be fined not less than five thousand dollars
14 (\$5,000) nor more than fifty thousand dollars (\$50,000).

15 ~~(32)~~~~(30)~~ Any person brokering the sale or transfer of any transplantable organ shall be
16 guilty of a Class C felony.

17 ~~(33)~~~~(31)~~ Any person charging a fee associated with the transplantation of a
18 transplantable organ in excess of the direct and indirect costs of procuring,
19 distributing, or transplanting the transplantable organ shall be fined not less than
20 fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars
21 (\$500,000).

22 ~~(34)~~~~(32)~~ Any hospital performing transplantable organ transplants which knowingly
23 fails to report the possible sale, purchase, or brokering of a transplantable organ
24 shall be fined not less than ten thousand dollars (\$10,000) or more than fifty
25 thousand dollars (\$50,000).

26 ~~(35)~~~~(33)~~ (a) Any physician or qualified technician who violates KRS 311.727 shall
27 be fined not more than one hundred thousand dollars (\$100,000) for a first

1 offense and not more than two hundred fifty thousand dollars (\$250,000) for
2 each subsequent offense.

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

6 ~~(36)~~~~(34)~~ Any person who violates KRS 311.691 shall be guilty of a Class B
7 misdemeanor for the first offense, and a Class A misdemeanor for a second or
8 subsequent offense. In addition to any other penalty imposed for that violation, the
9 board may, through the Attorney General, petition a Circuit Court to enjoin the
10 person who is violating KRS 311.691 from practicing genetic counseling in
11 violation of the requirements of KRS 311.690 to 311.700.

12 ~~(37)~~~~(35)~~ Any person convicted of violating KRS 311.728 shall be guilty of a Class D
13 felony.

14 ➔Section 15. KRS 213.101 is amended to read as follows:

15 (1) (a) Each induced termination of pregnancy which occurs in the Commonwealth,
16 regardless of the length of gestation, shall be reported to the Vital Statistics
17 Branch by the person in charge of the institution within fifteen (15) days after
18 the end of the month in which the termination occurred. If the induced
19 termination of pregnancy was performed outside an institution, the attending
20 physician shall prepare and file the report within fifteen (15) days after the end
21 of the month in which the termination occurred.

22 (b) The report shall include all the information the physician is required to certify
23 or provide in writing or determine under KRS 311.782, ~~and~~ 311.783,
24 Sections 4, 5, 6, and 7 of this Act, but shall not include information which
25 will identify the physician, woman, or man involved.

26 (c) If a person other than the physician described in this subsection makes or
27 maintains a record required by Section 4, 5, 6, or 7 of this Act on the

1 *physician's behalf or at the physician's direction, that person shall comply*
2 *with the reporting requirement described in this subsection as if the person*
3 *were the physician.*

- 4 (2) The name of the person completing the report and the reporting institution shall not
5 be subject to disclosure under KRS 61.870 to 61.884.
- 6 (3) By September 30 of each year, the Vital Statistics Branch shall issue a public report
7 that provides statistics for the previous calendar year compiled from all of the
8 reports covering that calendar year submitted to the cabinet in accordance with this
9 section for each of the items listed in subsection (1) of this section. Each annual
10 report shall also provide statistics for all previous calendar years in which this
11 section was in effect, adjusted to reflect any additional information from late or
12 corrected reports. The Vital Statistics Branch shall ensure that none of the
13 information included in the report could reasonably lead to the identification of any
14 pregnant woman upon whom an abortion was performed or attempted.
- 15 (4) (a) Any person or institution who fails to submit a report by the end of thirty (30)
16 days following the due date set in subsection (1) of this section shall be
17 subject to a late fee of five hundred dollars (\$500) for each additional thirty
18 (30) day period or portion of a thirty (30) day period the report is overdue.
- 19 (b) Any person or institution who fails to submit a report, or who has submitted
20 only an incomplete report, more than one (1) year following the due date set in
21 subsection (1) of this section, may in a civil action brought by the Vital
22 Statistics Branch be directed by a court of competent jurisdiction to submit a
23 complete report within a time period stated by court order or be subject to
24 contempt of court.
- 25 (c) Failure by any physician to comply with the requirements of this section, other
26 than filing a late report, or to submit a complete report in accordance with a
27 court order shall subject the physician to KRS 311.595.

1 (5) Intentional falsification of any report required under this section is a Class A
2 misdemeanor.

3 (6) ~~[Within ninety (90) days of January 9, 2017,]~~The Vital Statistics Branch shall
4 promulgate administrative regulations in accordance with KRS Chapter 13A to
5 assist in compliance with this section.

6 ➔Section 16. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 15
7 of this Act.

8 ➔Section 17. If any provision of this Act or the application thereof to any person
9 or circumstance is held invalid, the invalidity shall not affect other provisions or
10 applications of the Act that can be given effect without the invalid provision or
11 application, and to this end the provisions of the Act are severable.

12 ➔Section 18. Whereas the Commonwealth of Kentucky has legitimate interests
13 from the outset of the pregnancy in protecting the health of the woman and the life of an
14 unborn human individual who may be born, an emergency is declared to exist, and this
15 Act takes effect upon its passage and approval by the Governor or upon its otherwise
16 becoming law.