

# Kentucky

*EMW Women's Surgical Ctr., P.S.C. v. Cameron*, Nos. 2022-SC-0326-I, 2022-SC-0329-TG, 2022 Ky. LEXIS 287, at \*3 (Aug. 18, 2022) (noting Court of Appeals dissolved preliminary injunction of KRS § 311.772, granting transfer Ky S. Ct., setting briefing and oral argument).

## **Ky. Rev. Stat. § 213.101. Abortion required to be reported to Vital Statistics Branch — Contents of report — Public report by Vital Statistics Branch — Administrative regulations — Audit by Inspector General.**

(1) Each abortion as defined in [KRS 213.011](#) which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within three (3) days after the end of the month in which the abortion occurred. If the abortion was performed outside an institution, the attending physician shall prepare and file the report within three (3) days after the end of the month in which the abortion occurred.

(2) The report shall include all the information the physician is required to certify in writing or determine under [KRS 311.731](#), 311.732, [311.7704](#), [311.7705](#), [311.7706](#), [311.7707](#), 311.7735, 311.7736, [311.774](#), [311.782](#), and 311.783, and at a minimum:

(a) The full name and address of the physician who performed the abortion or provided the abortion-inducing drug as defined in [KRS 311.7731](#);

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

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

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

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

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

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

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

(i) The probable gestational and post-fertilization ages of the unborn child, the methods used to confirm the gestational and post-fertilization ages, and the date determined;

- (j)** A list of any pre-existing medical conditions of the pregnant patient that may complicate her pregnancy, if any, including hemorrhage, infection, uterine perforation, cervical laceration, retained products, or any other condition;
- (k)** Whether the fetus was delivered alive and the length of time the fetus survived;
- (l)** Whether the fetus was viable and, if viable, the medical reason for termination;
- (m)** Whether a pathological examination of the fetus was performed;
- (n)** Whether the pregnant patient returned for a follow-up examination, the date and results of any such follow-up examination, and what reasonable efforts were made by the qualified physician to encourage the patient to reschedule a follow-up examination if the appointment was missed;
- (o)** Whether the woman suffered any complications or adverse events as defined in [KRS 311.7731](#) and what specific complications or adverse events occurred, and any follow-up treatment provided as required by [KRS 311.774](#);
- (p)** Whether the pregnant patient was Rh negative and, if so, was provided with an Rh negative information fact sheet and treated with the prevailing medical standard of care to prevent harmful fetal or child outcomes or Rh incompatibility in future pregnancies;
- (q)** The amount billed to cover the treatment for specific complications or adverse events, including whether the treatment was billed to Medicaid, private insurance, private pay, or other method. This should include ICD-10 codes reported and charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests, and any other costs for treatment rendered;
- (r)** The reason for the abortion, if known, including abuse, coercion, harassment, or trafficking; and
- (s)** Whether the pregnant patient was tested for sexually transmitted diseases when providing the informed consent required in [KRS 311.725](#) and 311.7735 twenty-four (24) hours before the abortion procedure or tested at the time of the abortion procedure, and if the pregnant patient tested positive, was treated or referred for treatment and follow-up care.

**(3)** The report shall not contain:

**(a)** The name of the pregnant patient;

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

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

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

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

**(6)** The name of the person completing the report and the reporting institution shall not be subject to disclosure under [KRS 61.870](#) to [61.884](#).

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

**(8)**

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

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

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

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

(10) The Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.

(11)

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

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

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

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

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

All abortion facility inspections, including any violations of [KRS 216B.0431](#) and [216B.0435](#).

**Ky. Rev. Stat. § 311.710. Legislative findings.**

The General Assembly of the Commonwealth of Kentucky hereby finds and declares:

(1) That it is in the interest of the people of the Commonwealth of Kentucky that every precaution be taken to insure the protection of every viable unborn child being aborted, and every precaution be taken to provide life-supportive procedures to insure the unborn child its continued life after its abortion; and

(2) That currently, in the Commonwealth, there is inadequate legislation to protect the life, health and welfare of pregnant women and unborn human life; and

(3) That it is in the interest of the people of the Commonwealth of Kentucky to maintain accurate statistical data to aid in providing proper maternal health regulations.

(4) It is the intention of the General Assembly of the Commonwealth of Kentucky to assure the integrity and autonomy of a woman's decision whether to submit to an abortion or to carry her child to term, to protect the rights and interests of a minor incompetent woman and her parents in the context of abortion, to further the Commonwealth's compelling interest in protecting the formal integrity of the marital relation and the

procreative rights and interests of the husband, and to provide for the development of statistical data. The General Assembly finds as fact that the rights and interests furthered by this chapter are not secure in the context in which abortion is presently performed.

(5) It is the present intention of the General Assembly to protect the valid and compelling interests of the Commonwealth and its inhabitants without unduly burdening a woman's constitutional privacy rights as delineated by the courts. If, however, the United States Constitution is amended or relevant judicial decisions are reversed or modified, the declared policy of this Commonwealth to recognize and to protect the lives of all human beings regardless of their degree of biological development shall be fully restored.

**Ky. Rev. Stat. § 311.715. Use of public agency funds for abortion prohibited -- Use of public medical facilities for in-vitro fertilization permitted -- Distribution of public agency funds to entity that performs or counsels for abortion or family planning prohibited -- Order of priority for awarding federal family planning funds upon repeal of federal regulations that bar prioritizing recipients.**

(1) As used in this section, "public agency funds" means any money, regardless of the original source of the money, of a public agency.

(2) Public agency funds shall not be used for the purpose of obtaining an abortion or paying for the performance of an abortion. Public medical facilities may be used for the purpose of conducting research into or the performance of in-vitro fertilization as long as such procedures do not result in the intentional destruction of a human embryo.

(3) Public agency funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that performs, induces, refers for, or counsels in favor of abortions. This subsection shall not apply to funding available through KRS 205.510 to 205.560 to the minimum extent necessary to comply with federal conditions for the state's participation in the program established by KRS 205.510 to 205.560 or to funding that is used to provide abstinence education in schools.

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

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

1. Public agencies that directly provide family planning services, including state, county, and local community health clinics and federally qualified health centers;

2. Nonpublic entities that directly provide basic health services, as described in 42 U.S.C. sec. 254b(b)(1)(A), including family planning services; and

3. Nonpublic entities that directly provide only family planning services but do not provide all basic health services as described in 42 U.S.C. sec. 254b(b)(1)(A).

(c) This subsection shall be effective upon repeal of federal regulations prohibiting states from prioritizing recipients of federal Public Health Service Act, Title X Family Planning Program funds.

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

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

**Ky. Rev. Stat. § 311.720. Definitions for KRS 311.710 to 311.820 and other laws.**

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

- (1) "Abortion" means the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death;
- (2) "Accepted medical procedures" means procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients;
- (3) "Cabinet" means the Cabinet for Health and Family Services of the Commonwealth of Kentucky;
- (4) "Consent," as used in KRS 311.710 to 311.820 with reference to those who must give their consent, means an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for health and family services;
- (5) "Family planning services" means educational, medical, and social services and activities that enable individuals to determine the number and spacing of their children and to select the means by which this may be achieved;
- (6) "Fetus" means a human being from fertilization until birth;
- (7) "Hospital" means those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216;
- (8) "Human being" means any member of the species homo sapiens from fertilization until death;
- (9) "Medical emergency" means any condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;
- (10) "Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion;
- (11) "Partial-birth abortion" means an abortion in which the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery;
- (12) "Physician" means any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to this chapter;
- (13) "Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the abortion is planned to be performed;
- (14) "Public agency" means the Commonwealth of Kentucky; any agency, department, entity, or instrumentality thereof; any city, county, agency, department, entity, or instrumentality thereof; or any other political subdivision of the Commonwealth, agency, department, entity, or instrumentality thereof;
- (15) "Vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus; and

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

**Ky. Rev. Stat. § 311.723. When physician may perform abortion – Guidelines.**

(1) No abortion shall be performed except by a physician after either:

(a) He determines that, in his best clinical judgment, the abortion is necessary; or

(b) He receives what he reasonably believes to be a written statement signed by another physician, hereinafter called the "referring physician," certifying that in the referring physician's best clinical judgment the abortion is necessary, and, in addition, he receives a copy of the report form required by KRS 213.101.

(2) No abortion shall be performed except in compliance with regulations which the cabinet shall issue to ensure that:

(a) Before the abortion is performed, the pregnant woman shall have a private medical consultation either with the physician who is to perform the abortion or with the referring physician in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based upon his best clinical judgment, the abortion is necessary;

(b) The physician who is to perform the abortion or the referring physician will describe the basis for his best clinical judgment that the abortion is necessary on a form prescribed by the cabinet as required by KRS 213.101; and

(c) Paragraph (a) of this subsection shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that an emergency exists on a form prescribed by the cabinet as required by KRS 213.101.

(3) Notwithstanding any statute to the contrary, nothing in this chapter shall be construed as prohibiting a physician from prescribing or a woman from using birth control methods or devices, including, but not limited to, intrauterine devices, oral contraceptives, or any other birth control method or device.

**Ky. Rev. Stat. § 311.724. Informed consent given in "individual, private setting."**

If a section of the Kentucky Revised Statutes uses the phrase "individual, private setting" to describe the conditions under which informed consent must be given to a medical procedure, then the informed consent offered in accordance with that section shall be considered valid only if a physician or a licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician has a face-to-face meeting with the patient and both parties are physically located in the same room or are participating in real-time visual telehealth services initiated by the physician or by the patient.

**Ky. Rev. Stat. § 311.725. Requirement of voluntary and informed written consent for abortion – Cabinet's duty to produce and make available informational materials – Abortions in medical emergencies.**

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

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

1. The nature and purpose of the particular abortion procedure or treatment to be performed and of those medical risks and alternatives to the procedure or treatment that a reasonable

patient would consider material to the decision of whether or not to undergo the abortion;

2. The probable gestational age of the embryo or fetus at the time the abortion is to be performed;
3. The medical risks associated with the pregnant woman carrying her pregnancy to term; and
4. The potential ability of a physician to reverse the effects of prescription drugs intended to induce abortion, where additional information about this possibility may be obtained, and contact information for assistance in locating a physician who may aid in the reversal;

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

1. The cabinet publishes the printed materials described in subsection (2)(a), (b), and (c) of this section and that she has a right to review the printed materials and that copies will be provided to her by the physician, licensed nurse, physician assistant, or social worker free of charge if she chooses to review the printed materials;
2. Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the cabinet;
3. The father of the fetus is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion; and
4. It is illegal in Kentucky to intentionally perform an abortion, in whole or in part, because of:
  - a. The sex of the unborn child;
  - b. The race, color, or national origin of the unborn child; or
  - c. The diagnosis, or potential diagnosis, of Down syndrome or any other disability;

(c) At least twenty-four (24) hours prior to the abortion, a copy of the printed materials has been provided to the pregnant woman if she chooses to view these materials;

(d) The pregnant woman certifies in writing, prior to the performance or inducement of the abortion:

1. That she has received the information required to be provided under paragraphs (a), (b), and (c) of this subsection; and
2. That she consents to the particular abortion voluntarily and knowingly, and she is not under the influence of any drug of abuse or alcohol; and

(e) Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed statement, on a form which may be provided by the physician, on which she consents to the abortion and that includes the certification required by paragraph (d) of this subsection.

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



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

(b) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two (2) week gestational increments for the first sixteen (16) weeks of her pregnancy and at four (4) week gestational increments from the seventeenth week of her pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall include, for each of the two (2) of four (4) week increments specified in this paragraph, a pictorial or photographic depiction of the zygote, blastocyte, embryo, or fetus. The materials shall also include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment; and

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

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

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

(5) If the conditions specified in subsection (1) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

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

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

**Ky. Rev. Stat. § 311.727. Requirement for performance and explanation of obstetric ultrasound and auscultation of fetal heartbeat prior to abortion – Exception for medical emergency or necessity.**

(1) As used in this section:

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

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

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

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

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

(b) Provide a simultaneous explanation of what the ultrasound is depicting, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted and also, if the ultrasound image indicates that fetal demise has occurred, inform the woman of that fact;

(c) Display the ultrasound images so that the pregnant woman may view the images;

(d) Auscultate the fetal heartbeat of the unborn child so that the pregnant woman may hear the heartbeat if the heartbeat is audible;

(e) Provide a medical description of the ultrasound images, which shall include the dimensions of the embryo or fetus and the presence of external members and internal organs, if present and viewable; and

(f) Retain in the woman's medical record a signed certification from the pregnant woman that she has been presented with the information required to be provided under paragraphs (c) and (d) of this subsection and has viewed the ultrasound images, listened to the heartbeat if the heartbeat is audible, or declined to do so. The signed certification shall be on a form prescribed by the cabinet.

(3) When the ultrasound images and heartbeat sounds are provided to and reviewed with the pregnant woman, nothing in this section shall be construed to prevent the pregnant woman from averting her eyes from the ultrasound images or requesting the volume of the heartbeat be reduced or turned off if the heartbeat is audible. Neither the physician, the qualified technician, nor the pregnant woman shall be subject to any penalty if the pregnant woman refuses to look at the displayed ultrasound images or to listen to the heartbeat if the heartbeat is audible.

(4) The requirements of this section shall be in addition to any requirement contained in KRS 311.725 or any other section of KRS 311.710 to 311.820.

(5) The provisions of this section shall not apply in the case of a medical emergency or medical necessity. If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior

satisfaction of the requirements of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

**Ky. Rev. Stat. § 311.728. Physician must be physically present with patient to perform or induce abortion – Use of telehealth prohibited.**

A physician performing or inducing an abortion shall be present in person and in the same room with the patient. The use of telehealth as defined in 304.17A-005 shall not be allowed in the performance of an abortion.

**Ky. Rev. Stat. § 311.732. Performance of abortion upon a minor – Definitions – Notice – Consent requirement – Petition in District or Circuit Court – Hearing – Report – Medical emergencies.**

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

- (a) "Minor" means any person under the age of eighteen (18);
- (b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and
- (c) "Abortion" means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

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

(a) The attending physician has secured the informed written consent of the minor and one (1) parent or legal guardian with joint or physical custody and the consenting parent or legal guardian of the minor has made a reasonable attempt to notify any other parent with joint or physical custody at least forty-eight (48) hours prior to providing the informed written consent.

1. Notice shall not be required to be provided to any parent who has:

- a. Previously been enjoined by a domestic violence order or interpersonal protective order, regardless of whether or not the person to be protected by the order was the minor; or
- b. Been convicted of, or entered into a diversion program for, a criminal offense against a victim who is a minor as defined in KRS 17.500 or for a violent or sexual criminal offense under KRS Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531.

2. The informed written consent shall include:

- a. A copy of the minor's government-issued identification, a copy of the consenting parent's or legal guardian's government-issued identification, and written documentation including but not limited to a birth certificate, court-ordered custodial paperwork, or tax return, establishing that he or she is the lawful parent or legal guardian; and
- b. The parent's or legal guardian's certification that he or she consents to the abortion. The certification shall be in a signed, dated, and notarized document that has been initialed on each page and that contains the following statement, which shall precede the signature of the parent or legal guardian: "I, (insert name of parent

or legal guardian), am the (select "parent" or "legal guardian") of (insert name of minor) and give consent for (insert name of attending physician) to perform an abortion on her. Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true."

3. The attending physician shall keep a copy of the informed written consent in the medical file of the minor for five (5) years after the minor reaches eighteen (18) years of age or for seven (7) years, whichever is longer.

4. The attending physician securing the informed written consent from a parent or legal guardian under this subsection shall execute for inclusion in the medical record of the minor an affidavit stating: "I, (insert name of attending physician), certify that, according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and her parent or legal guardian as sufficient evidence of identity.";

(b) The minor is emancipated and the attending physician has received the informed written consent of the minor; or

(c) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician has received the informed written consent of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall ensure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall ensure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to ensure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to:

1. The minor's:

a. Age;

b. Emotional development and stability;

c. Maturity;

d. Intellect;

e. Credibility and demeanor as a witness;

f. Ability to accept responsibility;

g. Ability to assess both the current and future life-impacting consequences of, and alternatives to, the abortion; and

h. Ability to understand and explain the medical risks of the abortion and to apply that understanding to her decision; and

2. Whether there may be any undue influence by another on the minor's decision to have an abortion.

(4) (a) If the court finds by:

1. Clear and convincing evidence that the minor is sufficiently mature to decide whether to have an abortion;

2. Clear and convincing evidence that the requirements of this section are not in the best interest of the minor; or

3. A preponderance of the evidence that the minor is the victim of child abuse or sexual abuse inflicted by one (1) or both of her parents or her legal guardian; the court shall enter a written order, making specific factual findings and legal conclusions supporting its decision to grant the petition for an abortion.

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

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

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

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

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

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

(b) The Supreme Court, through the Administrative Office of the Courts, shall report by February 1 of each year to the Legislative Research Commission and the cabinet on the number of petitions filed under subsection (3) of this section for the preceding year, and the timing and manner of disposal of the petition by each court. For each approved petition granting an abortion filed under subsection (3) of this section, the specific court finding in subsection (4) of this section shall be included in the report.

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

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

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

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

(11) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common-law rights of parents.

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

**Ky. Rev. Stat. § 311.735. Notice to spouse – Exceptions – Civil remedies.**

(1) Prior to performing an abortion, the physician who is to perform the abortion or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion is to be performed. If it is not reasonably possible to notify the spouse prior to the abortion, the physician or his agent shall do so, if reasonably possible, within thirty (30) days of the abortion.

(2) (a) The requirements of this section shall not apply if, before the abortion is performed, either party to a marriage has filed a petition for dissolution of marriage which has been served on the respondent;

(b) The requirements of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the cabinet as required by KRS 213.101, and the physician or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion was performed, within thirty (30) days of the abortion.

(3) Failure to notify a spouse as required by this section is prima facie evidence of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of a husband.

**Ky. Rev. Stat. § 311.750. Performance by other than licensed physician prohibited.**

Subject to provisions of KRS 311.760(1), no person other than a licensed physician shall perform an abortion.

**Ky. Rev. Stat. § 311.760. Minimum standards for performance of abortion.**

An abortion may be performed in this state only under the following circumstances:

(1) During the first trimester of pregnancy by a woman upon herself upon the advice of a licensed physician

or by a licensed physician.

(2) After the first trimester of pregnancy, except in cases of emergency to protect the life or health of the pregnant woman, where an abortion is permitted under other provisions of KRS 311.710 to 311.820, by a duly licensed physician in a hospital duly licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

**Ky. Rev. Stat. § 311.765. Prohibition against partial-birth abortion.**

No physician shall perform a partial-birth abortion.

**Ky. Rev. Stat. § 311.770. Restriction on use of saline method.**

After the first trimester no person shall perform the form of abortion known as the saline method of abortion.

**Ky. Rev. Stat. § 311.772. Prohibition against intentional termination of life of an unborn human being — Definitions — When section takes effect — Penalties not to apply to pregnant woman — Contraception — Appropriation of Medicaid funds.**

(1) As used in this section:

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

(b) “Pregnant” means the human female reproductive condition of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth; and

(c) “Unborn human being” means an individual living member of the species homo sapiens throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

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

(a) Any decision of the United States Supreme Court which reverses, in whole or in part, [Roe v. Wade, 410 U.S. 113 \(1973\)](#), thereby restoring to the Commonwealth of Kentucky the authority to prohibit abortion; or

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

(3)

(a) No person may knowingly:

1. Administer to, prescribe for, procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being; or

2. Use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

(b) Any person who violates paragraph (a) of this subsection shall be guilty of a Class D felony.

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

(a) For a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the unborn human being in a manner consistent with reasonable medical practice; or

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

(5) Nothing in this section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

(6) Nothing in this section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

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

**Ky. Rev. Stat. § 311.782. Prohibition against performing or inducing abortion when probable gestational age of unborn child is 15 weeks or more — Affirmative defenses — Penalties for violation.**

(1) No person shall intentionally perform or induce or intentionally attempt to perform or induce an abortion on a pregnant woman when the probable gestational age of the unborn child is fifteen (15) weeks or greater.

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

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

(b) The abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. No abortion shall be necessary if it is based on a claim or diagnosis that the pregnant woman will engage in conduct that would result in her death or in substantial and irreversible impairment of a major bodily function or if it is based on any reason related to her mental health.

(3)

(a) Except when a medical emergency exists that prevents compliance with [KRS 311.783](#), the affirmative defense set forth in subsection (2)(a) of this section does not



apply unless the physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion makes a determination of the probable gestational age of the unborn child as required by [KRS 311.783\(1\)](#) or relied upon such a determination made by another physician and certifies in writing, based on the results of the tests performed, that in the physician's reasonable medical judgment the unborn child's probable gestational age is less than fifteen (15) weeks.

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

1. The physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion certifies in writing that, in the physician's reasonable medical judgment, based on the facts known to the physician at that time, the abortion is necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;
2. A different physician not professionally related to the physician described in subparagraph 1. of this paragraph certifies in writing that, in that different physician's reasonable medical judgment, based on the facts known to that different physician at that time, the abortion is necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;
3. The physician intentionally performs or induces or intentionally attempts to perform or induce the abortion in a hospital or other health care facility that has appropriate neonatal services for premature infants;
4. The physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion terminates or attempts to terminate the pregnancy in the manner that provides the best opportunity for the unborn child to survive, unless that physician determines, in the physician's reasonable medical judgment, based on the facts known to the physician at that time, that the termination of the pregnancy in that manner poses a greater risk of death of the pregnant woman or a greater risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman than would other available methods of abortion;
5. The physician certifies in writing the available method or techniques considered and the reasons for choosing the method or technique employed; and
6. The physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion has arranged for the attendance in the same room in which the abortion is to be performed or induced or attempted to be performed or induced at

least one (1) other physician who is to take control of, provide immediate medical care for, and take all reasonable steps necessary to preserve the life and health of the unborn child immediately upon the child's complete expulsion or extraction from the pregnant woman.

(4) The state Board of Medical Licensure shall revoke a physician's license to practice medicine in this state if the physician violates or fails to comply with this section.

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

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

#### **Ky. Rev. Stat. § 311.990. Penalties.**

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

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

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under [KRS 311.380](#) to [311.510](#) by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of [KRS 311.380](#) to [311.510](#), or otherwise violates or neglects to comply with any of the provisions of [KRS 311.380](#) to [311.510](#), shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of [KRS 311.380](#) to [311.510](#) shall be considered a separate offense.

(4) Each violation of [KRS 311.560](#) shall constitute a Class D felony.

(5) Each violation of [KRS 311.590](#) shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of [KRS 311.550](#) to [311.620](#) shall be a Class A misdemeanor.

(7) Each violation of [KRS 311.375\(1\)](#) shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of [KRS 311.375\(2\)](#) shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

**(9)** Each day of violation of either subsection of [KRS 311.375](#) shall constitute a separate offense.

**(10)**

**(a)** Any person who intentionally or knowingly performs an abortion contrary to the requirements of [KRS 311.723\(1\)](#) shall be guilty of a Class D felony; and

**(b)** Any person who intentionally, knowingly, or recklessly violates the requirements of [KRS 311.723\(2\)](#) shall be guilty of a Class A misdemeanor.

**(11)**

**(a)**

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

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

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

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

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

(12)

(a) Except as provided in subsection (12) of Section 1 of this Act, any person who intentionally, knowingly, or recklessly performs an abortion upon a minor without obtaining the required consent pursuant to Section 1 of this Act shall be guilty of a Class D felony.

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

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

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

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

(15) Any person who violates [KRS 311.760\(2\)](#) shall be guilty of a Class D felony.

(16) Any person who violates [KRS 311.770](#) shall be guilty of a Class D felony.

(17) Except as provided in [KRS 311.787\(3\)](#), any person who intentionally violates [KRS 311.787](#) shall be guilty of a Class D felony.

(18) A person convicted of violating [KRS 311.780](#) shall be guilty of a Class C felony.

(19) Except as provided in [KRS 311.782\(6\)](#), any person who intentionally violates [KRS 311.782](#) shall be guilty of a Class D felony.

(20) Any person who violates [KRS 311.783\(1\)](#) shall be guilty of a Class B misdemeanor.

(21) Any person who violates [KRS 311.7705\(1\)](#) is guilty of a Class D felony.

(22) Any person who violates [KRS 311.7706\(1\)](#) is guilty of a Class D felony.

(23) Except as provided in [KRS 311.731\(7\)](#), any person who violates [KRS 311.731\(2\)](#) shall be guilty of a Class D felony.

(24) Any physician, physician assistant, advanced practice registered nurse, nurse, or other healthcare provider who intentionally violates [KRS 311.823\(2\)](#) shall be guilty of a Class D felony. As used in this subsection, "healthcare provider" has the same meaning as in [KRS 311.821](#).

(25) Any person who violates [KRS 311.810](#) shall be guilty of a Class A misdemeanor.

**(26)** Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of [KRS 311.606](#) shall be guilty of a Class B misdemeanor.

**(27)** Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of [KRS 311.800\(1\)](#) shall be guilty of a Class A misdemeanor.

**(28)** Any person who violates [KRS 311.905\(3\)](#) shall be guilty of a violation.

**(29)** Any person who violates the provisions of [KRS 311.820](#) shall be guilty of a Class A misdemeanor.

**(30)**

**(a)** Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by [KRS 311.281](#), shall be guilty of a Class A misdemeanor.

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

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

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

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

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

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

**(36)**

**(a)** Any physician or qualified technician who violates [KRS 311.727](#) shall be fined not more than one hundred thousand dollars (\$100,000) for a first offense and not more than two hundred fifty thousand dollars (\$250,000) for each subsequent offense.

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

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

**(38)** Any person convicted of violating [KRS 311.728](#) shall be guilty of a Class D felony.

**(39)**

**(a)** A person who intentionally, knowingly, or recklessly violates Sections 5 to 11 of this Act is guilty of a Class D felony.

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