

1 AN ACT relating to abortion.

2 WHEREAS, the Tenth Amendment to the Constitution of The United States of
3 America reserves for the states or for the people all powers not delegated to the United
4 States Federal Government; and

5 WHEREAS, the Fourteenth Amendment to the Constitution of The United States of
6 America provides that no person shall be deprived of life and must be afforded equal
7 protection under the law; and

8 WHEREAS, an unborn fetus is a person and should be afforded equal protection
9 under the law;

10 NOW, THEREFORE,

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

12 ➔SECTION 1. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED
13 TO READ AS FOLLOWS:

14 *As used in this section and Sections 2 and 3 of this Act:*

15 *(1) "Incest" means an act of sexual intercourse or deviate sexual intercourse, as*
16 *defined in KRS 510.010, with an ancestor, descendant, uncle, aunt, brother, or*
17 *sister. The relationships referred to in this subsection include blood relationships*
18 *of either the whole or half blood without regard to legitimacy, relationship of*
19 *parent and child by adoption, relationship of stepparent and stepchild, and*
20 *relationship of stepgrandparent and stepgrandchild;*

21 *(2) "Medical emergency" means a condition that in the physician's reasonable*
22 *medical judgment, based upon the facts known to the physician at that time, so*
23 *complicated the woman's pregnancy as to necessitate the immediate performance*
24 *or inducement of an abortion in order to prevent the death of the pregnant*
25 *woman or to avoid a serious risk of substantial and irreversible impairment of a*
26 *major bodily function of the pregnant woman that delay in performance or*
27 *inducement of an abortion would create;*

1 (3) "Physician" has the same meaning as in KRS 311.720;

2 (4) "Rape" means any action that would constitute a violation of KRS 510.040,
 3 510.050, or 510.060;

4 (5) "Reasonable medical judgment" means a medical judgment that would be made
 5 by a reasonably prudent physician, knowledgeable about the case and the
 6 treatment possibilities with respect to the medical conditions involved;

7 (6) "Serious risk of substantial and irreversible impairment of a major bodily
 8 function" means any medically diagnosed condition that so complicates the
 9 pregnancy of the woman as to directly or indirectly cause the substantial and
 10 irreversible impairment of a major bodily function. A medically diagnosed
 11 condition that constitutes "a serious risk of substantial and irreversible
 12 impairment of a major bodily function" includes but is not limited to pre-
 13 eclampsia, inevitable abortion, and premature rupture of membranes; and

14 (7) "Threat to the mother's life" means any medically diagnosed condition that so
 15 complicates the pregnancy of a woman as to directly or indirectly endanger the
 16 life of the mother.

17 ➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED
 18 TO READ AS FOLLOWS:

19 (1) Except when a medical emergency exists that prevents compliance with Section 3
 20 of this Act, no person shall intentionally perform or induce or intentionally
 21 attempt to perform or induce an abortion on a pregnant woman unless the
 22 pregnancy to be terminated:

23 (a) Is the result of rape or incest; or

24 (b) Poses, in the reasonable medical judgment of the physician performing or
 25 inducing or attempting to perform or induce the abortion, a threat to the
 26 mother's life or a serious risk of substantial and irreversible impairment of
 27 a major bodily function, and that diagnosis is reviewed and confirmed in

1 accordance with protocol established in Section 3 of this Act.

2 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) Except when a medical emergency exists that prevents compliance with this
5 section, when a pregnancy is determined to pose a threat to the mother's life or
6 serious risk of substantial and irreversible impairment of a major bodily function,
7 a physician may perform or induce an abortion, only if the physician's diagnosis
8 is reviewed and confirmed by a panel of licensed physicians established by the
9 hospital in which the abortion is to be performed or induced as provided by
10 subsection (2) of this section.

11 (2) Any hospital that offers emergency services shall:

12 (a) Establish a review panel consisting of three (3) licensed physicians with
13 medical specialties in obstetrics and gynecology, pediatrics, and internal
14 medicine;

15 (b) Establish protocol for the timely review of all cases in which a physician
16 determines that the pregnancy of a woman being treated in that hospital
17 poses, in the reasonable medical judgment of that physician, a threat to the
18 mother's life or a serious risk of substantial and irreversible impairment of
19 a major bodily function; and

20 (c) Ensure that all cases in which a physician determines that the pregnancy of
21 a woman being treated in that hospital poses, in the reasonable medical
22 judgment of that physician, a threat to the mother's life or a serious risk of
23 substantial and irreversible impairment of a major bodily function is
24 reviewed by the panel established under paragraph (a) of this subsection
25 within twenty-four (24) hours.

26 (3) The State Board of Medical Licensure shall revoke a physician's license to
27 practice medicine in this state, for a period not to exceed five (5) years, if the

1 physician violates or fails to comply with this section.

2 (4) A pregnant woman on whom an abortion is intentionally performed or induced
3 or intentionally attempted to be performed or induced in violation of subsection
4 (1) or (2) of this section is not guilty of violating this section or of attempting to
5 commit, conspiring to commit, or be complicit in a violation of subsection (1) or
6 (2) of this section.

7 ➔SECTION 4. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED
8 TO READ AS FOLLOWS:

9 Sections 1, 2, and 3 of this Act shall not be construed to repeal, by implication or
10 otherwise, any law regulating or restricting abortion. An abortion that complies with
11 Sections 1, 2, and 3 of this Act but violates any otherwise applicable provision of state
12 law shall be deemed unlawful as provided in those provisions. An abortion that
13 complies with the provisions of state law regulating or restricting abortion but violates
14 the provisions of Sections 1, 2, and 3 of this Act shall be deemed unlawful as provided
15 for in those provisions. If some or all of the provisions of Sections 1, 2, and 3 of this
16 Act are temporarily or permanently restrained or enjoined by judicial order, all other
17 provisions of state law regulating or restricting abortion shall be enforced as though
18 the restrained or enjoined provisions had not been adopted. However, if the temporary
19 or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases
20 to have effect, those provisions shall have full force and effect.

21 ➔SECTION 5. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED
22 TO READ AS FOLLOWS:

23 Sections 1, 2, and 3 of this Act may be cited as the Sanctuary State for the Unborn Act.