

1 AN ACT relating to reporting the dispensing of prescriptions to induce abortion.

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

3 ➔Section 1. KRS 213.101 is amended to read as follows:

4 (1) Each **abortion as defined in KRS 311.720**~~[induced termination of pregnancy]~~
5 which occurs in the Commonwealth, regardless of the length of gestation, shall be
6 reported to the Vital Statistics Branch by the person in charge of the institution
7 within fifteen (15) days after the end of the month in which the **abortion**~~[~~
8 ~~termination]~~ occurred. If the **abortion**~~[induced termination of pregnancy]~~ was
9 performed outside an institution, the attending physician shall prepare and file the
10 report within fifteen (15) days after the end of the month in which the **abortion**~~[~~
11 ~~termination]~~ occurred. The report shall include all the information the physician is
12 required to certify in writing or determine under KRS 311.782 and 311.783, but
13 shall not include information which will identify the physician, woman, or man
14 involved.

15 (2) **Each prescription dispensed for RU-486, cytotec, pitocin, mifeprex, misoprostol,**
16 **or any other drug or combination of drugs that are intended to induce abortion**
17 **as defined in KRS 311.720 shall be reported to the Vital Statistics Branch within**
18 **fifteen (15) days after the end of the month in which the prescription was**
19 **dispensed as required by Section 2 of this Act, but shall not include information**
20 **which will identify the woman involved or anyone who may be picking up the**
21 **prescription on behalf of the woman.**

22 (3) The name of the person completing the report and the reporting institution shall not
23 be subject to disclosure under KRS 61.870 to 61.884.

24 (4)~~(3)~~ By September 30 of each year, the Vital Statistics Branch shall issue a public
25 report that provides statistics **on all data collected including the type of abortion**
26 **procedure used** for the previous calendar year compiled from all of the reports
27 covering that calendar year submitted to the cabinet in accordance with this section

1 for each of the items listed in **subsections (1) and (2)**~~[subsection (1)]~~ of this section.
 2 Each annual report shall also provide statistics for all previous calendar years in
 3 which this section was in effect, adjusted to reflect any additional information from
 4 late or corrected reports. The Vital Statistics Branch shall ensure that none of the
 5 information included in the report could reasonably lead to the identification of any
 6 pregnant woman upon whom an abortion was performed or attempted. **Each**
 7 **annual report shall be made available on the cabinet's Web site.**

8 ~~(5)~~~~(4)~~ (a) Any person or institution who fails to submit a report by the end of thirty
 9 (30) days following the due date set in **subsections (1) and (2)**~~[subsection (1)]~~
 10 of this section shall be subject to a late fee of five hundred dollars (\$500) for
 11 each additional thirty (30) day period or portion of a thirty (30) day period the
 12 report is overdue.

13 (b) Any person or institution who fails to submit a report, or who has submitted
 14 only an incomplete report, more than one (1) year following the due date set in
 15 **subsections (1) and (2)**~~[subsection (1)]~~ of this section, may in a civil action
 16 brought by the Vital Statistics Branch be directed by a court of competent
 17 jurisdiction to submit a complete report within a time period stated by court
 18 order or be subject to contempt of court.

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

22 ~~(6)~~~~(5)~~ Intentional falsification of any report required under this section is a Class A
 23 misdemeanor.

24 ~~(7)~~~~(6)~~ ~~[Within ninety (90) days of January 9, 2017,]~~The Vital Statistics Branch shall
 25 promulgate administrative regulations in accordance with KRS Chapter 13A to
 26 assist in compliance with this section.

27 ➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED

1 TO READ AS FOLLOWS:

2 **Each prescription dispensed for RU-486, cytotec, pitocin, mifeprax, misoprostol, or any**
3 **other drug or combination of drugs that are intended to induce abortion as defined in**
4 **KRS 311.720 shall be reported on a report form provided by the cabinet within fifteen**
5 **(15) days after the end of the month in which the prescription was dispensed.**

6 →Section 3. KRS 311.723 is amended to read as follows:

- 7 (1) No abortion shall be performed except by a physician after either:
- 8 (a) He determines that, in his best clinical judgment, the abortion is necessary; or
- 9 (b) He receives what he reasonably believes to be a written statement signed by
- 10 another physician, hereinafter called the "referring physician," certifying that
- 11 in the referring physician's best clinical judgment the abortion is necessary,
- 12 and, in addition, he receives a copy of the report form required by KRS
- 13 **213.101**~~[213-055]~~.
- 14 (2) No abortion shall be performed except in compliance with regulations which the
- 15 cabinet shall issue to assure that:
- 16 (a) Before the abortion is performed, the pregnant woman shall have a private
- 17 medical consultation either with the physician who is to perform the abortion
- 18 or with the referring physician in a place, at a time and of a duration
- 19 reasonably sufficient to enable the physician to determine whether, based
- 20 upon his best clinical judgment, the abortion is necessary;
- 21 (b) The physician who is to perform the abortion or the referring physician will
- 22 describe the basis for his best clinical judgment that the abortion is necessary
- 23 on a form prescribed by the cabinet as required by KRS **213.101**~~[213-055]~~;
- 24 and
- 25 (c) Paragraph (a) of this subsection shall not apply when, in the medical judgment
- 26 of the attending physician based on the particular facts of the case before him,
- 27 there exists a medical emergency. In such a case, the physician shall describe

1 the basis of his medical judgment that an emergency exists on a form
2 prescribed by the cabinet as required by 213.101~~[KRS 213.055]~~.

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

7 ➔Section 4. KRS 311.735 is amended to read as follows:

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

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

16 (b) The requirements of this section shall not apply when, in the medical
17 judgment of the attending physician based on the particular facts of the case
18 before him, there exists a medical emergency. In such a case, the physician
19 shall describe the basis of his medical judgment that such an emergency exists
20 on a form prescribed by the cabinet as required by KRS 213.101~~[213.055]~~,
21 and the physician or his agent shall notify, if reasonably possible, the spouse
22 of the woman upon whom the abortion was performed, within thirty (30) days
23 of the abortion.

24 (3) Failure to notify a spouse as required by this section is prima facie evidence of
25 interference with family relations in appropriate civil actions. The law of this
26 Commonwealth shall not be construed to preclude the award of punitive damages or
27 damages for emotional distress, even if unaccompanied by physical complications

1 in any civil action brought pursuant to violations of this section. Nothing in this
2 section shall be construed to limit the common law rights of a husband.