AN ACT relating to unborn children and declaring an emergency.

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

Section 1. KRS 507A.010 is amended to read as follows:

(1) As used in this chapter:

(a) "Abortion" means the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with the intent to cause the death of the unborn child; [has the same meaning as in KRS 311.720];

(b) "Fertilization" means the fusion of a human spermatozoon with a human ovum; ["Health care provider" has the same meaning as in KRS 304.17A-005];

and

(c) "Unborn child" means a human being [member of the species homo sapiens in utero] from fertilization until live birth [conception onward], without regard to age, health, or condition of dependency.

(2) In a prosecution for the death of an unborn child, [nothing in this chapter shall apply without limitation and notwithstanding KRS 311.720 to 311.820, KRS Chapter 216B relating to abortion facilities, or any other provisions of the law relating to an abortion, regardless of the identity of the actor] to acts performed by or at the direction of a health care provider that cause the death of an unborn child if those acts were committed:

(a) During any abortion for which the consent of the pregnant woman has been obtained or for which the consent is implied by law in a medical emergency;

or

(b) As part of or incident to diagnostic testing or therapeutic medical or fertility treatment, provided that the acts were performed with that degree of care and skill which an ordinarily careful, skilled, and prudent health care provider or a person acting under the provider's direction would exercise under the same or similar circumstances.
(3) Nothing in this chapter shall apply to any acts of a pregnant woman that caused the
death of her unborn child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General shall monitor the enforcement of the provisions of KRS
Chapter 507A.

(2) The Commonwealth's attorneys and, where applicable, the Attorney General
shall enforce KRS Chapter 507A, regardless of any contrary or conflicting state
or federal laws, administrative regulations, executive orders, or judicial decisions.

Section 3. KRS 211.027 is amended to read as follows:

The Cabinet for Health and Family Services shall promulgate reasonable rules and
regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS
311.720[311.710] to 311.820[311.810], which shall be submitted to the Legislative
Research Commission in a manner prescribed in KRS Chapter 13A; the Legislative
Research Commission shall refer said rules and regulations to the Interim Committee on
Health and Welfare for the purpose of approval or disapproval.

Section 4. KRS 311.720 is amended to read as follows:

As used in KRS 311.720[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;
"Consent," as used in KRS 311.720[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;

"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;

"Fetus" means a human being from fertilization until birth;

"Hospital" means those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216;

"Human being" means any member of the species homo sapiens from fertilization until death;

"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;

"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;

"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;

"Physician" means any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to this chapter;

"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.

Section 5. KRS 311.727 is amended to read as follows:

(1) As used in this section:

(a) "Ascultate" 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) Ascultate 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 311.720[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.

Section 6.  KRS 311.760 is amended to read as follows:
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 311.720[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.

Section 7.  The following KRS sections are repealed:
311.710  Legislative findings.
507A.060  Death sentence prohibited.

Section 8.  This Act applies only to conduct and offenses that occur or are
committed on or after the effective date of this Act. Conduct and offenses that occurred or
were committed before the effective date of this Act shall be governed by the law in
effect at the time the conduct occurred or the offense was committed.

Section 9. Any federal statute, administrative regulation, executive order, or judicial decision that purports to supersede, stay, or overrule the provisions of this Act is in violation of the Kentucky Constitution and the Constitution of the United States of America and is therefore void. The Commonwealth of Kentucky and its political subdivisions, and agents thereof, may not enter an appearance, special or otherwise, in any federal suit challenging the provisions of this Act.

Section 10. This Act may be cited as the Abolition of Abortion in Kentucky Act.

Section 11. Whereas an average of more than nine unborn children are killed via abortion in Kentucky each day, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.