

311.731 Prohibition against sex-, race-, color-, national origin-, or disability-based abortion -- Certification to Vital Statistics Branch -- Revocation of license -- Action for damages -- Severability.

- (1) As used in this section:
 - (a) "Abortion facility" has the same meaning as in KRS 216B.015;
 - (b) "Any other disability" means any disease, defect, or disorder, whether or not genetically inherited. The term includes but is not limited to the following:
 1. A physical disability;
 2. A mental or intellectual disability;
 3. A physical disfigurement;
 4. Scoliosis;
 5. Dwarfism;
 6. Albinism;
 7. Amelia; or
 8. A physical or mental disease.However, the term does not include a lethal fetal anomaly;
 - (c) "Corporation" has the same meaning as in KRS 271B.1-400;
 - (d) "Down syndrome" means a chromosome disorder associated either with an extra chromosome twenty-one (21), in whole or in part, or an effective trisomy for chromosome twenty-one (21);
 - (e) "Human being" has the same meaning as in KRS 311.720;
 - (f) "Medical emergency" has the same meaning as in KRS 311.720;
 - (g) "Person" includes any human being and any corporation;
 - (h) "Physician" has the same meaning as in KRS 311.720; and
 - (i) "Unborn child" has the same meaning as in KRS 311.781.
- (2) No person shall intentionally perform or induce or attempt to perform or induce an abortion on a pregnant woman if the person has knowledge that the pregnant woman is seeking the abortion, in whole or in part, because of any of the following:
 - (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;except in the case of a medical emergency.
- (3) In the report required under KRS 213.101, the attending physician shall certify in writing whether the attending physician had knowledge that the pregnant woman was seeking the abortion, in whole or in part, because of any of the following:
 - (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.

- (4) The State Board of Medical Licensure shall revoke a physician's license to practice medicine in this state if the physician violates subsection (2) of this section.
- (5) The Cabinet for Health and Family Services shall revoke the license of any person, including a licensed abortion facility, who violates subsection (2) of this section.
- (6) Any physician or other person who violates subsection (2) of this section is liable in a civil action for compensatory and punitive damages and reasonable attorney's fees to any person, including an unborn child, or the representative of the estate of any person, including 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.
- (7) A pregnant woman on whom an abortion is performed or induced or attempted to be performed or induced in violation of subsection (2) of this section is not guilty of violating subsection (2) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (2) of this section.
- (8) If any provision of this section is held invalid, or if the application of any provision of this section to any person or circumstance is held invalid, the invalidity of that provision does not affect any other provisions or applications of this section or KRS 311.710 to 311.820 that can be given effect without the invalid provision or application, and to this end the provisions of this section and KRS 311.710 to 311.820 are severable. In particular, it is the intent of the General Assembly that any invalidity or potential invalidity of a provision of this section is not to impair the immediate and continuing enforceability of any other provisions of this section and KRS 311.710 to 311.820. It is furthermore the intent of the General Assembly that the provisions of this section are not to have the effect of repealing or limiting any other laws of this state.

Effective: March 19, 2019

History: Created 2019 Ky. Acts ch. 37, sec. 1, effective March 19, 2019.

Legislative Research Commission Note (3/19/2019). 2019 Ky. Acts ch. 37, sec. 8, provides that 2019 Ky. Acts ch. 37 may be cited as "Human Rights of the Unborn Child and Anti-Discrimination Act." This statute was created by Section 1 of that Act.