

1 AN ACT relating to freestanding birthing centers.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section, "freestanding birthing center" means any health facility,*  
6 *place, or institution which is not a hospital, is not in a hospital or a private*  
7 *residence, and is established to provide care for labor, delivery, the immediate*  
8 *postpartum period, and the newborn immediately following delivery.*

9 *(2) The cabinet shall promulgate updated administrative regulations establishing*  
10 *licensure standards for freestanding birthing centers by December 1, 2024. The*  
11 *administrative regulations shall:*

12 *(a) Require accreditation by the Commission for the Accreditation of Birth*  
13 *Centers;*

14 *(b) Be consistent with the American Association of Birth Centers' Standards*  
15 *for Birth Centers;*

16 *(c) Consistent with the requirements of paragraphs (a) and (b) of this*  
17 *subsection, require plans for transfer and safe transport to a hospital when*  
18 *such transfer and transport are needed, including to facilities providing*  
19 *maternal and neonatal intensive care when such care is indicated;*

20 *(d) Delineate requirements for medical malpractice insurance for freestanding*  
21 *birthing centers; and*

22 *(e) Not prohibit a hospital from owning or operating a freestanding birthing*  
23 *center that complies with the requirements of this section.*

24 *(3) A certificate of need shall not be required to establish and license a freestanding*  
25 *birthing center with no more than four (4) beds.*

26 *(4) (a) Nothing in this section is intended to expand or limit the liability of a health*  
27 *care provider, health care facility, or freestanding birthing center.*

1       **(b) In the event of an action for injury or death due to any act or omission of a**  
 2       **health care provider rendering services at a freestanding birthing center**  
 3       **from which an injured patient is transferred to any other licensed health**  
 4       **care provider or licensed health care facility:**

5       **1. The liability of the subsequent licensed health care provider or**  
 6       **licensed health care facility shall be limited to their own negligent acts**  
 7       **and omissions that violate their standards of care according to existing**  
 8       **law, except as provided in subparagraph 2. of this paragraph; and**

9       **2. If the subsequent licensed health care provider or licensed health care**  
 10       **facility owns, operates, or provides care at the freestanding birthing**  
 11       **center from which the injured patient was transferred, then the**  
 12       **licensed health care provider or licensed health care facility shall be**  
 13       **liable for acts or omissions that violate their standards of care and that**  
 14       **occurred at the freestanding birthing center.**

15       **(5) In accordance with KRS 311.772, no person shall perform an abortion in a**  
 16       **freestanding birthing center.**

17       ➔Section 2. KRS 216B.015 is amended to read as follows:

18       Except as otherwise provided, for purposes of this chapter, the following definitions shall  
 19       apply:

- 20       (1) "Abortion facility" means any place in which an abortion is performed;
- 21       (2) "Administrative regulation" means a regulation adopted and promulgated pursuant  
 22       to the procedures in KRS Chapter 13A;
- 23       (3) "Affected persons" means the applicant; any person residing within the geographic  
 24       area served or to be served by the applicant; any person who regularly uses health  
 25       facilities within that geographic area; health facilities located in the health service  
 26       area in which the project is proposed to be located which provide services similar to  
 27       the services of the facility under review; health facilities which, prior to receipt by

1 the agency of the proposal being reviewed, have formally indicated an intention to  
2 provide similar services in the future; and the cabinet and third-party payors who  
3 reimburse health facilities for services in the health service area in which the project  
4 is proposed to be located;

5 (4) (a) "Ambulatory surgical center" means a health facility:

- 6 1. Licensed pursuant to administrative regulations promulgated by the  
7 cabinet;
- 8 2. That provides outpatient surgical services, excluding oral or dental  
9 procedures; and
- 10 3. Seeking recognition and reimbursement as an ambulatory surgical center  
11 from any federal, state, or third-party insurer from which payment is  
12 sought.

13 (b) An ambulatory surgical center does not include the private offices of  
14 physicians where in-office outpatient surgical procedures are performed as  
15 long as the physician office does not seek licensure, certification,  
16 reimbursement, or recognition as an ambulatory surgical center from a  
17 federal, state, or third-party insurer.

18 (c) Nothing in this subsection shall preclude a physician from negotiating  
19 enhanced payment for outpatient surgical procedures performed in the  
20 physician's private office so long as the physician does not seek recognition or  
21 reimbursement of his or her office as an ambulatory surgical center without  
22 first obtaining a certificate of need or license required under KRS 216B.020  
23 and 216B.061;

24 (5) "Applicant" means any physician's office requesting a major medical equipment  
25 expenditure exceeding the capital expenditure minimum, or any person, health  
26 facility, or health service requesting a certificate of need or license;

27 (6) "Cabinet" means the Cabinet for Health and Family Services;

- 1 (7) "Capital expenditure" means an expenditure made by or on behalf of a health  
2 facility which:
- 3 (a) Under generally accepted accounting principles is not properly chargeable as  
4 an expense of operation and maintenance or is not for investment purposes  
5 only; or
- 6 (b) Is made to obtain by lease or comparable arrangement any facility or part  
7 thereof or any equipment for a facility or part thereof;
- 8 (8) "Capital expenditure minimum" means the annually adjusted amount set by the  
9 cabinet. In determining whether an expenditure exceeds the expenditure minimum,  
10 the cost of any studies, surveys, designs, plans, working drawings, specifications,  
11 and other activities essential to the improvement, expansion, or replacement of any  
12 plant or any equipment with respect to which the expenditure is made shall be  
13 included. Donations of equipment or facilities to a health facility which if acquired  
14 directly by the facility would be subject to review under this chapter shall be  
15 considered a capital expenditure, and a transfer of the equipment or facilities for  
16 less than fair market value shall be considered a capital expenditure if a transfer of  
17 the equipment or facilities at fair market value would be subject to review;
- 18 (9) "Certificate of need" means an authorization by the cabinet to acquire, to establish,  
19 to offer, to substantially change the bed capacity, or to substantially change a health  
20 service as covered by this chapter;
- 21 (10) "Certified surgical assistant" means a certified surgical assistant or certified first  
22 assistant who is certified by the National Surgical Assistant Association on the  
23 Certification of Surgical Assistants, the Liaison Council on Certification of Surgical  
24 Technologists, or the American Board of Surgical Assistants. The certified surgical  
25 assistant is an unlicensed health-care provider who is directly accountable to a  
26 physician licensed under KRS Chapter 311 or, in the absence of a physician, to a  
27 registered nurse licensed under KRS Chapter 314;

- 1 (11) "Continuing care retirement community" means a community that provides, on the  
2 same campus, a continuum of residential living options and support services to  
3 persons sixty (60) years of age or older under a written agreement. The residential  
4 living options shall include independent living units, nursing home beds, and either  
5 assisted living units or personal care beds;
- 6 (12) "Formal review process" means the ninety (90) day certificate-of-need review  
7 conducted by the cabinet;
- 8 (13) "Health facility" means any institution, place, building, agency, or portion thereof,  
9 public or private, whether organized for profit or not, used, operated, or designed to  
10 provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and  
11 includes alcohol abuse, drug abuse, and mental health services. This shall include  
12 but shall not be limited to health facilities and health services commonly referred to  
13 as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical  
14 dependency programs, nursing facilities, nursing homes, personal care homes,  
15 intermediate care facilities, assisted living communities, family care homes,  
16 outpatient clinics, ambulatory care facilities, ambulatory surgical centers,  
17 emergency care centers and services, ambulance providers, hospices, community  
18 mental health centers, home health agencies, kidney disease treatment centers and  
19 freestanding hemodialysis units, freestanding birthing centers as defined in  
20 Section 1 of this Act, and others providing similarly organized services regardless  
21 of nomenclature;
- 22 (14) "Health services" means clinically related services provided within the  
23 Commonwealth to two (2) or more persons, including but not limited to diagnostic,  
24 treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental  
25 health services;
- 26 (15) "Independent living" means the provision of living units and supportive services,  
27 including but not limited to laundry, housekeeping, maintenance, activity direction,

- 1 security, dining options, and transportation;
- 2 (16) "Intraoperative surgical care" includes the practice of surgical assisting in which the  
3 certified surgical assistant or physician assistant is working under the direction of  
4 the operating physician as a first or second assist, and which may include the  
5 following procedures:
- 6 (a) Positioning the patient;
- 7 (b) Preparing and draping the patient for the operative procedure;
- 8 (c) Observing the operative site during the operative procedure;
- 9 (d) Providing the best possible exposure of the anatomy incident to the operative  
10 procedure;
- 11 (e) Assisting in closure of incisions and wound dressings; and
- 12 (f) Performing any task, within the role of an unlicensed assistive person, or if  
13 the assistant is a physician assistant, performing any task within the role of a  
14 physician assistant, as required by the operating physician incident to the  
15 particular procedure being performed;
- 16 (17) "Major medical equipment" means equipment which is used for the provision of  
17 medical and other health services and which costs in excess of the medical  
18 equipment expenditure minimum. In determining whether medical equipment has a  
19 value in excess of the medical equipment expenditure minimum, the value of  
20 studies, surveys, designs, plans, working drawings, specifications, and other  
21 activities essential to the acquisition of the equipment shall be included;
- 22 (18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an  
23 application for a certificate of need as authorized under KRS 216B.095;
- 24 (19) "Nonclinically related expenditures" means expenditures for:
- 25 (a) Repairs, renovations, alterations, and improvements to the physical plant of a  
26 health facility which do not result in a substantial change in beds, a substantial  
27 change in a health service, or the addition of major medical equipment, and do

- 1 not constitute the replacement or relocation of a health facility; or
- 2 (b) Projects which do not involve the provision of direct clinical patient care,
- 3 including but not limited to the following:
- 4 1. Parking facilities;
  - 5 2. Telecommunications or telephone systems;
  - 6 3. Management information systems;
  - 7 4. Ventilation systems;
  - 8 5. Heating or air conditioning, or both;
  - 9 6. Energy conservation; or
  - 10 7. Administrative offices;
- 11 (20) "Party to the proceedings" means the applicant for a certificate of need and any
- 12 affected person who appears at a hearing on the matter under consideration and
- 13 enters an appearance of record;
- 14 (21) "Perioperative nursing" means a practice of nursing in which the nurse provides
- 15 preoperative, intraoperative, and postoperative nursing care to surgical patients;
- 16 (22) "Person" means an individual, a trust or estate, a partnership, a corporation, an
- 17 association, a group, state, or political subdivision or instrumentality including a
- 18 municipal corporation of a state;
- 19 (23) "Physician assistant" means the same as the definition provided in KRS 311.550;
- 20 (24) "Record" means, as applicable in a particular proceeding:
- 21 (a) The application and any information provided by the applicant at the request
  - 22 of the cabinet;
  - 23 (b) Any information provided by a holder of a certificate of need or license in
  - 24 response to a notice of revocation of a certificate of need or license;
  - 25 (c) Any memoranda or documents prepared by or for the cabinet regarding the
  - 26 matter under review which were introduced at any hearing;
  - 27 (d) Any staff reports or recommendations prepared by or for the cabinet;

- 1 (e) Any recommendation or decision of the cabinet;
- 2 (f) Any testimony or documentary evidence adduced at a hearing;
- 3 (g) The findings of fact and opinions of the cabinet or the findings of fact and  
4 recommendation of the hearing officer; and
- 5 (h) Any other items required by administrative regulations promulgated by the  
6 cabinet;

- 7 (25) "Registered nurse first assistant" means one who:
- 8 (a) Holds a current active registered nurse licensure;
- 9 (b) Is certified in perioperative nursing; and
- 10 (c) Has successfully completed and holds a degree or certificate from a  
11 recognized program, which shall consist of:
- 12 1. The Association of Operating Room Nurses, Inc., Core Curriculum for  
13 the registered nurse first assistant; and
- 14 2. One (1) year of postbasic nursing study, which shall include at least  
15 forty-five (45) hours of didactic instruction and one hundred twenty  
16 (120) hours of clinical internship or its equivalent of two (2) college  
17 semesters.

18 A registered nurse who was certified prior to 1995 by the Certification Board of  
19 Perioperative Nursing shall not be required to fulfill the requirements of paragraph  
20 (c) of this subsection;

- 21 (26) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 22 (27) "Sexual assault examination facility" means a licensed health facility, emergency  
23 medical facility, primary care center, or a children's advocacy center or rape crisis  
24 center that is regulated by the Cabinet for Health and Family Services, and that  
25 provides sexual assault examinations under KRS 216B.400;
- 26 (28) "State health plan" means the document prepared triennially, updated annually, and  
27 approved by the Governor;



- 1 (29) "Substantial change in a health service" means:
- 2 (a) The addition of a health service for which there are review criteria and
- 3 standards in the state health plan; or
- 4 (b) The addition of a health service subject to licensure under this chapter;
- 5 (30) "Substantial change in bed capacity" means the addition or reduction of beds by
- 6 licensure classification within a health facility;
- 7 (31) "Substantial change in a project" means a change made to a pending or approved
- 8 project which results in:
- 9 (a) A substantial change in a health service, except a reduction or termination of a
- 10 health service;
- 11 (b) A substantial change in bed capacity, except for reductions;
- 12 (c) A change of location; or
- 13 (d) An increase in costs greater than the allowable amount as prescribed by
- 14 regulation;
- 15 (32) "To acquire" means to obtain from another by purchase, transfer, lease, or other
- 16 comparable arrangement of the controlling interest of a capital asset or capital
- 17 stock, or voting rights of a corporation. An acquisition shall be deemed to occur
- 18 when more than fifty percent (50%) of an existing capital asset or capital stock or
- 19 voting rights of a corporation is purchased, transferred, leased, or acquired by
- 20 comparable arrangement by one (1) person from another person;
- 21 (33) "To batch" means to review in the same review cycle and, if applicable, give
- 22 comparative consideration to all filed applications pertaining to similar types of
- 23 services, facilities, or equipment affecting the same health service area;
- 24 (34) "To establish" means to construct, develop, or initiate a health facility;
- 25 (35) "To obligate" means to enter any enforceable contract for the construction,
- 26 acquisition, lease, or financing of a capital asset. A contract shall be considered
- 27 enforceable when all contingencies and conditions in the contract have been met.

1 An option to purchase or lease which is not binding shall not be considered an  
2 enforceable contract; and

3 (36) "To offer" means, when used in connection with health services, to hold a health  
4 facility out as capable of providing, or as having the means of providing, specified  
5 health services.

6 ➔Section 3. KRS 216B.020 is amended to read as follows:

7 (1) The provisions of this chapter that relate to the issuance of a certificate of need shall  
8 not apply to abortion facilities as defined in KRS 216B.015; any hospital which  
9 does not charge its patients for hospital services and does not seek or accept  
10 Medicare, Medicaid, or other financial support from the federal government or any  
11 state government; assisted living residences; family care homes; state veterans'  
12 nursing homes; services provided on a contractual basis in a rural primary-care  
13 hospital as provided under KRS 216.380; community mental health centers for  
14 services as defined in KRS Chapter 210; primary care centers; rural health clinics;  
15 private duty nursing services operating as health care services agencies as defined  
16 in KRS 216.718; group homes; licensed residential crisis stabilization units;  
17 licensed free-standing residential substance use disorder treatment programs with  
18 sixteen (16) or fewer beds, but not including Levels I and II psychiatric residential  
19 treatment facilities or licensed psychiatric inpatient beds; outpatient behavioral  
20 health treatment, but not including partial hospitalization programs; end stage renal  
21 disease dialysis facilities, freestanding or hospital based; swing beds; special  
22 clinics, including but not limited to wellness, weight loss, family planning,  
23 disability determination, speech and hearing, counseling, pulmonary care, and other  
24 clinics which only provide diagnostic services with equipment not exceeding the  
25 major medical equipment cost threshold and for which there are no review criteria  
26 in the state health plan; nonclinically related expenditures; nursing home beds that  
27 shall be exclusively limited to on-campus residents of a certified continuing care

1 retirement community; home health services provided by a continuing care  
2 retirement community to its on-campus residents; the relocation of hospital  
3 administrative or outpatient services into medical office buildings which are on or  
4 contiguous to the premises of the hospital; the relocation of acute care beds which  
5 occur among acute care hospitals under common ownership and which are located  
6 in the same area development district so long as there is no substantial change in  
7 services and the relocation does not result in the establishment of a new service at  
8 the receiving hospital for which a certificate of need is required; the redistribution  
9 of beds by licensure classification within an acute care hospital so long as the  
10 redistribution does not increase the total licensed bed capacity of the hospital;  
11 residential hospice facilities established by licensed hospice programs; **freestanding**  
12 **birthing centers as defined in Section 1 of this Act;** the following health services  
13 provided on site in an existing health facility when the cost is less than six hundred  
14 thousand dollars (\$600,000) and the services are in place by December 30, 1991:  
15 psychiatric care where chemical dependency services are provided, level one (1)  
16 and level two (2) of neonatal care, cardiac catheterization, and open heart surgery  
17 where cardiac catheterization services are in place as of July 15, 1990; or  
18 ambulance services operating in accordance with subsection (6), (7), or (8) of this  
19 section. These listed facilities or services shall be subject to licensure, when  
20 applicable.

- 21 (2) Nothing in this chapter shall be construed to authorize the licensure, supervision,  
22 regulation, or control in any manner of:
- 23 (a) Private offices and clinics of physicians, dentists, and other practitioners of  
24 the healing arts, except any physician's office that meets the criteria set forth  
25 in KRS 216B.015(5) or that meets the definition of an ambulatory surgical  
26 center as set out in KRS 216B.015;
- 27 (b) Office buildings built by or on behalf of a health facility for the exclusive use

1 of physicians, dentists, and other practitioners of the healing arts; unless the  
2 physician's office meets the criteria set forth in KRS 216B.015(5), or unless  
3 the physician's office is also an abortion facility as defined in KRS 216B.015,  
4 except no capital expenditure or expenses relating to any such building shall  
5 be chargeable to or reimbursable as a cost for providing inpatient services  
6 offered by a health facility;

7 (c) Outpatient health facilities or health services that:  
8 1. Do not provide services or hold patients in the facility after midnight;  
9 and  
10 2. Are exempt from certificate of need and licensure under subsection (3)  
11 of this section;

12 (d) Dispensaries and first-aid stations located within business or industrial  
13 establishments maintained solely for the use of employees, if the facility does  
14 not contain inpatient or resident beds for patients or employees who generally  
15 remain in the facility for more than twenty-four (24) hours;

16 (e) Establishments, such as motels, hotels, and boarding houses, which provide  
17 domiciliary and auxiliary commercial services, but do not provide any health  
18 related services and boarding houses which are operated by persons  
19 contracting with the United States Department of Veterans Affairs for  
20 boarding services;

21 (f) The remedial care or treatment of residents or patients in any home or  
22 institution conducted only for those who rely solely upon treatment by prayer  
23 or spiritual means in accordance with the creed or tenets of any recognized  
24 church or religious denomination and recognized by that church or  
25 denomination; and

26 (g) On-duty police and fire department personnel assisting in emergency  
27 situations by providing first aid or transportation when regular emergency

1 units licensed to provide first aid or transportation are unable to arrive at the  
2 scene of an emergency situation within a reasonable time.

3 (3) The following outpatient categories of care shall be exempt from certificate of need  
4 and licensure on July 14, 2018:

- 5 (a) Primary care centers;
- 6 (b) Special health clinics, unless the clinic provides pain management services  
7 and is located off the campus of the hospital that has majority ownership  
8 interest;
- 9 (c) Specialized medical technology services, unless providing a State Health Plan  
10 service;
- 11 (d) Retail-based health clinics and ambulatory care clinics that provide  
12 nonemergency, noninvasive treatment of patients;
- 13 (e) Ambulatory care clinics treating minor illnesses and injuries;
- 14 (f) Mobile health services, unless providing a service in the State Health Plan;
- 15 (g) Rehabilitation agencies;
- 16 (h) Rural health clinics; and
- 17 (i) Off-campus, hospital-acquired physician practices.

18 (4) The exemptions established by subsections (2) and (3) of this section shall not  
19 apply to the following categories of care:

- 20 (a) An ambulatory surgical center as defined by KRS 216B.015(4);
- 21 (b) A health facility or health service that provides one (1) of the following types  
22 of services:
  - 23 1. Cardiac catheterization;
  - 24 2. Megavoltage radiation therapy;
  - 25 3. Adult day health care;
  - 26 4. Behavioral health services;
  - 27 5. Chronic renal dialysis;{

- 1           ~~6.—Birthing services;]~~ or
- 2           ~~6.[7.]~~Emergency services above the level of treatment for minor illnesses or
- 3           injuries;
- 4           (c) A pain management facility as defined by KRS 218A.175(1);
- 5           (d) An abortion facility that requires licensure pursuant to KRS 216B.0431; or
- 6           (e) A health facility or health service that requests an expenditure that exceeds the
- 7           major medical expenditure minimum.
- 8           (5) An existing facility licensed as an intermediate care or nursing home shall notify
- 9           the cabinet of its intent to change to a nursing facility as defined in Public Law 100-
- 10          203. A certificate of need shall not be required for conversion of an intermediate
- 11          care or nursing home to the nursing facility licensure category.
- 12          (6) Ambulance services owned and operated by a city government, which propose to
- 13          provide services in coterminous cities outside of the ambulance service's designated
- 14          geographic service area, shall not be required to obtain a certificate of need if the
- 15          governing body of the city in which the ambulance services are to be provided
- 16          enters into an agreement with the ambulance service to provide services in the city.
- 17          (7) Ambulance services owned by a hospital shall not be required to obtain a certificate
- 18          of need for the sole purpose of providing non-emergency and emergency transport
- 19          services originating from its hospital.
- 20          (8) (a) As used in this subsection, "emergency ambulance transport services" means
- 21          the transportation of an individual that has an emergency medical condition
- 22          with acute symptoms of sufficient severity that the absence of immediate
- 23          medical attention could reasonably be expected to place the individual's health
- 24          in serious jeopardy or result in the serious impairment or dysfunction of the
- 25          individual's bodily organs.
- 26          (b) A city or county government that has conducted a public hearing for the
- 27          purposes of demonstrating that an imperative need exists in the city or county

1 to provide emergency ambulance transport services within its jurisdictional  
2 boundaries shall not be required to obtain a certificate of need for the city or  
3 county to:

- 4 1. Directly provide emergency ambulance transport services as defined in  
5 this subsection within the city's or county's jurisdictional boundaries; or
- 6 2. Enter into a contract with a hospital or hospitals within its jurisdiction,  
7 or within an adjoining county if there are no hospitals located within the  
8 county, for the provision of emergency ambulance transport services as  
9 defined in this subsection within the city's or county's jurisdictional  
10 boundaries.

11 (c) Any license obtained under KRS Chapter 311A by a city or county for the  
12 provision of ambulance services operating under a certificate of need  
13 exclusion pursuant to this subsection shall be held exclusively by the city or  
14 county government and shall not be transferrable to any other entity.

15 (d) Prior to obtaining the written agreement of a city, an ambulance service  
16 operating under a county government certificate of need exclusion pursuant to  
17 this subsection shall not provide emergency ambulance transport services  
18 within the boundaries of any city that:

- 19 1. Possesses a certificate of need to provide emergency ambulance  
20 services;
- 21 2. Has an agency or department thereof that holds a certificate of need to  
22 provide emergency ambulance services; or
- 23 3. Is providing emergency ambulance transport services within its  
24 jurisdictional boundaries pursuant to this subsection.

25 (9) (a) Except where a certificate of need is not required pursuant to subsection (6),  
26 (7), or (8) of this section, the cabinet shall grant nonsubstantive review for a  
27 certificate of need proposal to establish an ambulance service that is owned by

1 a:

2 1. City government;

3 2. County government; or

4 3. Hospital, in accordance with paragraph (b) of this subsection.

5 (b) A notice shall be sent by the cabinet to all cities and counties that a certificate  
6 of need proposal to establish an ambulance service has been submitted by a  
7 hospital. The legislative bodies of the cities and counties affected by the  
8 hospital's certificate of need proposal shall provide a response to the cabinet  
9 within thirty (30) days of receiving the notice. The failure of a city or county  
10 legislative body to respond to the notice shall be deemed to be support for the  
11 proposal.

12 (c) An ambulance service established under this subsection shall not be  
13 transferred to another entity that does not meet the requirements of paragraph  
14 (a) of this subsection without first obtaining a substantive certificate of need.

15 (10) Notwithstanding any other provision of law, a continuing care retirement  
16 community's nursing home beds shall not be certified as Medicaid eligible unless a  
17 certificate of need has been issued authorizing applications for Medicaid  
18 certification. The provisions of subsection (5) of this section notwithstanding, a  
19 continuing care retirement community shall not change the level of care licensure  
20 status of its beds without first obtaining a certificate of need.

21 (11) An ambulance service established under subsection (9) of this section shall not be  
22 transferred to an entity that does not qualify under subsection (9) of this section  
23 without first obtaining a substantive certificate of need.

24 (12) (a) The provisions of subsections (7), (8), and (9) of this section shall expire on  
25 July 1, 2026.

26 (b) All actions taken by cities, counties, and hospitals, exemptions from obtaining  
27 a certificate of need, and any certificate of need granted under subsections (7),



1 (8), and (9) of this section prior to July 1, 2026, shall remain in effect on and  
2 after July 1, 2026.

3 ➔Section 4. KRS 196.173 is amended to read as follows:

4 (1) Except as provided in subsection (2) of this section, an inmate housed in a jail,  
5 penitentiary, or local or state correctional or detention facility, residential center, or  
6 reentry center who is known to be pregnant shall be restrained solely with  
7 handcuffs in front of her body unless further restraint is required to protect herself  
8 or others.

9 (2) (a) Except in an extraordinary circumstance, no inmate who is known to be  
10 pregnant shall be restrained during labor, during transport to a medical facility  
11 or freestanding birthing center for delivery, or during postpartum recovery.

12 (b) As used in this subsection, "extraordinary circumstance" means that  
13 reasonable grounds exist to believe the inmate presents an immediate and  
14 credible:

- 15 1. Serious threat of hurting herself, staff, or others; or
- 16 2. Risk of escape that cannot be reasonably minimized through any method  
17 other than restraints.

18 ➔Section 5. KRS 211.122 is amended to read as follows:

19 (1) The Cabinet for Health and Family Services shall, in cooperation with maternal and  
20 infant health and mental health professional societies:

21 (a) Develop written information on perinatal mental health disorders and make it  
22 available on its website for access by freestanding birthing centers, hospitals  
23 that provide labor and delivery services, and the public; and

24 (b) Provide access on its website to one (1) or more evidence-based clinical  
25 assessment tools designed to detect the symptoms of perinatal mental health  
26 disorders for use by health care providers providing perinatal care and health  
27 care providers providing pediatric infant care.

- 1 (2) The Cabinet for Health and Family Services shall establish a collaborative panel  
2 composed of representatives of health care facilities that provide obstetrical and  
3 newborn care, maternal and infant health care providers, maternal mental health  
4 providers, representatives of university mental health training programs, maternal  
5 health advocates, women with experience living with perinatal mental health  
6 disorders, and other stakeholders for the purposes of:
- 7 (a) Improving the quality of prevention and treatment of perinatal mental health  
8 disorders;
  - 9 (b) Promoting the implementation of evidence-based bundles of care to improve  
10 patient safety;
  - 11 (c) Identifying unaddressed gaps in service related to perinatal mental health  
12 disorders that are linked to geographic, racial, and ethnic inequalities; lack of  
13 screenings; and insufficient access to treatments, professionals, or support  
14 groups; and
  - 15 (d) Exploring grant and other funding opportunities and making  
16 recommendations for funding allocations to address the need for services and  
17 supports for perinatal mental health disorders.
- 18 (3) The objectives set forth in subsection (2)(a) to (d) of this section may be achieved  
19 by incorporating the panel's findings and recommendations into other programs  
20 administered by the Cabinet for Health and Family Services that are intended to  
21 improve maternal health care quality and safety.
- 22 (4) On or before November 1 of each year, the panel shall submit a report to the  
23 Interim Joint Committee on Families and Children, the Interim Joint Committee on  
24 Health Services, and the Advisory Council for Medical Assistance describing the  
25 panel's work and any recommendations to address identified gaps in services and  
26 supports for perinatal mental health disorders.
- 27 ➔Section 6. KRS 211.647 is amended to read as follows:

- 1 (1) The office, on receipt of an auditory screening report of an infant from a hospital or  
2 freestanding~~[alternative]~~ birthing center in accordance with KRS 216.2970 shall  
3 review each auditory screening report that indicates a potential hearing loss. The  
4 office shall contact the parents to schedule follow-up evaluations or make a referral  
5 for evaluations within three (3) business days.
- 6 (2) The office shall secure information missing from birth certificates or hospital  
7 referral reports which is relevant to identifying infants with a hearing loss.
- 8 (3) The office shall establish standards for infant audiological assessment and  
9 diagnostic centers based on accepted national standards, including but not limited to  
10 the "Guidelines for the Audiologic Assessment of Children From Birth to 5 Years  
11 of Age" as published by the American Speech-Language-Hearing Association  
12 (ASHA) and the "Year 2007 Position Statement: Principles and Guidelines for  
13 Early Hearing Detection and Intervention Programs" as published by the Joint  
14 Committee on Infant Hearing (JCIH). The office may promulgate administrative  
15 regulations in accordance with KRS Chapter 13A to establish the standards for the  
16 centers.
- 17 (4) The office shall maintain a list of approved infant audiological assessment and  
18 diagnostic centers that meet the standards established by the office. An audiological  
19 assessment and diagnostic center included on the list shall meet the standards  
20 established by the office. An approved center may voluntarily choose not to be  
21 included on the list.
- 22 (5) An approved audiology assessment and diagnostic center shall agree to provide  
23 requested data to the office for each infant evaluated and on any newly identified  
24 children ages birth to three (3) years with a permanent childhood hearing loss  
25 within forty-eight (48) hours and make a referral to the Kentucky Early Intervention  
26 System point of entry in the service area of the child's residence for services under  
27 KRS 200.664. A center shall submit documentation to the office of a referral made

1 to the Kentucky Early Intervention System. A referral received by the Kentucky  
2 Early Intervention System from a center shall be considered a referral from the  
3 office.

4 (6) If the audiological evaluation performed by the office contains evidence of a  
5 hearing loss, within forty-eight (48) hours the office shall:

6 (a) Contact the attending physician and parents and provide information to the  
7 parents in an accessible format as supplied by the Kentucky Commission on  
8 the Deaf and Hard of Hearing; and

9 (b) Make a referral to the Kentucky Early Intervention System point of entry in  
10 the service area of the child's residence for services under KRS 200.664.

11 (7) The office shall forward a report of an audiological evaluation that indicates a  
12 hearing loss, with no information that personally identifies the child, to:

13 (a) The Kentucky Commission on the Deaf and Hard of Hearing for census  
14 purposes; and

15 (b) The Kentucky Birth Surveillance Registry for information purposes.

16 (8) Cumulative demographic data of identified infants with a hearing loss shall be made  
17 available to agencies and organizations including but not limited to the Cabinet for  
18 Health and Family Services and the Early Childhood Advisory Council, requesting  
19 the information for planning purposes.

20 ➔Section 7. KRS 211.660 is amended to read as follows:

21 (1) The Department for Public Health shall establish and maintain a Kentucky birth  
22 surveillance registry that will provide a system for the collection of information  
23 concerning birth defects, stillbirths, and high-risk conditions. The system may cover  
24 all or part of the Commonwealth.

25 (2) In establishing the system, the department may review vital statistics records, and  
26 shall also consider expanding the current list of congenital anomalies and high-risk  
27 conditions as reported on birth certificates.

- 1 (3) (a) The department may require general acute-care hospitals licensed under KRS  
2 Chapter 216B to maintain a list of all inpatients and voluntarily to maintain a  
3 list of all outpatients up to the age of five (5) years with a primary diagnosis  
4 of a congenital anomaly or high-risk condition as defined by the department  
5 upon the recommendation of the appointed advisory committee. Hospital  
6 participation regarding its outpatients shall be voluntary and subject to the  
7 discretion of each hospital.
- 8 (b) The department may require medical laboratories licensed under KRS Chapter  
9 333 to maintain medical records for all persons up to the age of five (5) years  
10 with a primary diagnosis of or a laboratory test result indicating congenital  
11 anomaly or high-risk condition as defined by the department upon the  
12 recommendation of the appointed advisory committee.
- 13 (4) Each licensed freestanding~~[free-standing]~~ birthing center, general acute-care  
14 hospital licensed under KRS Chapter 216B, and medical laboratory licensed under  
15 KRS Chapter 333 shall grant, if required or otherwise participating voluntarily  
16 under the provisions of subsection (3) of this section, to any Kentucky Birth  
17 Surveillance Registry personnel or his or her designee, upon presentation of proper  
18 identification, access to the medical records of any patient meeting the criteria in  
19 subsection (3) of this section. If the department's agent determines that copying of  
20 the medical records is necessary, associated costs shall be borne by the Department  
21 for Public Health at the rate pursuant to KRS 422.317.
- 22 (5) No liability of any kind, character, damages, or other relief shall arise or be  
23 enforced against any licensed freestanding~~[free-standing]~~ birthing center, general  
24 acute-care hospital, or medical laboratory by reason of having provided the  
25 information or material to the Kentucky Birth Surveillance Registry.
- 26 (6) The Department for Public Health may implement the provisions of KRS 211.651  
27 to 211.670 through the promulgation of administrative regulations in accordance

1 with the provisions of KRS Chapter 13A.

2 ➔Section 8. KRS 213.046 is amended to read as follows:

3 (1) A certificate of birth for each live birth which occurs in the Commonwealth shall be  
4 filed with the state registrar within five (5) working days after such birth and shall  
5 be registered if it has been completed and filed in accordance with this section and  
6 applicable administrative regulations. No certificate shall be held to be complete  
7 and correct that does not supply all items of information called for in this section  
8 and in KRS 213.051, or satisfactorily account for their omission except as provided  
9 in KRS 199.570(3). If a certificate of birth is incomplete, the ~~state~~local registrar  
10 shall immediately notify the responsible person and require that person to supply  
11 the missing items, if that information can be obtained.

12 (2) When a birth occurs in a health facility~~[an institution]~~ or en route thereto, the  
13 person in charge of the health facility~~[institution]~~ or that person's designated  
14 representative, shall obtain the personal data, prepare the certificate, secure the  
15 signatures required, and file the certificate as directed in subsection (1) of this  
16 section or as otherwise directed by the state registrar within the required five (5)  
17 working days. The physician, midwife, or other person in attendance shall provide  
18 the medical information required for the certificate and certify to the fact of birth  
19 within five (5) working days after the birth. If the physician or other person in  
20 attendance does not certify to the fact of birth within the five (5) working day  
21 period, the person in charge of the health facility~~[institution]~~ shall complete and  
22 sign the certificate.

23 (3) When a birth occurs in a health facility~~[hospital]~~ or en route thereto to a woman  
24 who is unmarried, the person in charge of the health facility~~[hospital]~~ or that  
25 person's designated representative shall immediately before or after the birth of a  
26 child, except when the mother or the alleged father is a minor:

27 (a) Meet with the mother prior to the release from the health facility~~[hospital]~~;

- 1 (b) Attempt to ascertain whether the father of the child is available in the health  
2 facility~~hospital~~, and, if so, to meet with him, if possible;
- 3 (c) Provide written materials and oral, audio, or video materials about paternity;
- 4 (d) Provide the unmarried mother, and, if possible, the father, with the voluntary  
5 paternity form necessary to voluntarily establish paternity;
- 6 (e) Provide a written and an oral, audio, or video description of the rights and  
7 responsibilities, the alternatives to, and the legal consequences of  
8 acknowledging paternity;
- 9 (f) Provide written materials and information concerning genetic paternity  
10 testing;
- 11 (g) Provide an opportunity to speak by telephone or in person with staff who are  
12 trained to clarify information and answer questions about paternity  
13 establishment;
- 14 (h) If the parents wish to acknowledge paternity, require the voluntary  
15 acknowledgment of paternity obtained through the health facility-  
16 based~~hospital-based~~ program be signed by both parents and be authenticated  
17 by a notary public;
- 18 (i) Upon both the mother's and father's request, help the mother and father in  
19 completing the affidavit of paternity form;
- 20 (j) Upon both the mother's and father's request, transmit the affidavit of paternity  
21 to the state registrar; and
- 22 (k) In the event that the mother or the alleged father is a minor, information set  
23 forth in this section shall be provided in accordance with Civil Rule 17.03 of  
24 the Kentucky Rules of Civil Procedure.

25 If the mother or the alleged father is a minor, the paternity determination shall be  
26 conducted pursuant to KRS Chapter 406.

- 27 (4) The voluntary acknowledgment of paternity and declaration of paternity forms

1 designated by the Vital Statistics Branch shall be the only documents having the  
2 same weight and authority as a judgment of paternity.

3 (5) The Cabinet for Health and Family Services shall:

4 (a) Provide to all public and private health facilities offering obstetric or  
5 midwifery services~~[birthing hospitals]~~ in the state written materials in  
6 accessible formats and audio or video materials concerning paternity  
7 establishment forms necessary to voluntarily acknowledge paternity;

8 (b) Provide copies of a written description in accessible formats and an audio or  
9 video description of the rights and responsibilities of acknowledging  
10 paternity; and

11 (c) Provide staff training, guidance, and written instructions regarding voluntary  
12 acknowledgment of paternity as necessary to operate the health facility-  
13 based~~[hospital-based]~~ program.

14 (6) When a birth occurs outside a health facility~~[an institution]~~, verification of the birth  
15 shall be in accordance with the requirements of the state registrar and a birth  
16 certificate shall be prepared and filed by one (1) of the following in the indicated  
17 order of priority:

18 (a) The health care provider~~[physician]~~ in attendance at or immediately after the  
19 birth; or, in the absence of such a person,

20 (b) A midwife or any other person in attendance at or immediately after the birth;  
21 or, in the absence of such a person,

22 (c) The father, the mother, or in the absence of the father and the inability of the  
23 mother, the person in charge of the premises where the birth occurred or of  
24 the health facility~~[institution]~~ to which the child was admitted following the  
25 birth.

26 (7) No health care provider~~[physician, midwife,]~~ or other attendant shall refuse to sign  
27 or delay the filing of a birth certificate.



- 1 (8) If a birth occurs on a moving conveyance within the United States and the child is  
2 first removed from the conveyance in the Commonwealth, the birth shall be  
3 registered in the Commonwealth, and the place where the child is first removed  
4 shall be considered the place of birth. If a birth occurs on a moving conveyance  
5 while in international waters or air space or in a foreign country or its air space and  
6 the child is first removed from the conveyance in the Commonwealth, the birth  
7 shall be registered in the Commonwealth, but the certificate shall show the actual  
8 place of birth insofar as can be determined.
- 9 (9) The following provisions shall apply if the mother was married at the time of either  
10 conception or birth or anytime between conception and birth:
- 11 (a) If there is no dispute as to paternity, the name of the husband shall be entered  
12 on the certificate as the father of the child. The surname of the child shall be  
13 any name chosen by the parents; however, if the parents are separated or  
14 divorced at the time of the child's birth, the choice of surname rests with the  
15 parent who has legal custody following birth.
- 16 (b) If the mother claims that the father of the child is not her husband and the  
17 husband agrees to such a claim and the putative father agrees to the statement,  
18 a three (3) way affidavit of paternity may be signed by the respective parties  
19 and duly notarized. The state registrar of vital statistics shall enter the name of  
20 a nonhusband on the birth certificate as the father and the surname of the child  
21 shall be any name chosen by the mother.
- 22 (c) If a question of paternity determination arises which is not resolved under  
23 paragraph (b) of this subsection, it shall be settled by the District Court.
- 24 (10) The following provisions shall apply if the mother was not married at the time of  
25 either conception or birth or between conception and birth or the marital  
26 relationship between the mother and her husband has been interrupted for more than  
27 ten (10) months prior to the birth of the child:

- 1 (a) The name of the father shall not be entered on the certificate of birth. The  
2 state registrar shall upon acknowledgment of paternity by the father and with  
3 consent of the mother pursuant to KRS 213.121, enter the father's name on the  
4 certificate. The surname of the child shall be any name chosen by the mother  
5 and father. If there is no agreement, the child's surname shall be determined  
6 by the parent with legal custody of the child.
- 7 (b) If an affidavit of paternity has been properly completed and the certificate of  
8 birth has been filed accordingly, any further modification of the birth  
9 certificate regarding the paternity of the child shall require an order from the  
10 District Court.
- 11 (c) In any case in which paternity of a child is determined by a court order, the  
12 name of the father and surname of the child shall be entered on the certificate  
13 of birth in accordance with the finding and order of the court.
- 14 (d) In all other cases, the surname of the child shall be any name chosen by the  
15 mother.
- 16 (11) If the father is not named on the certificate of birth, no other information about the  
17 father shall be entered on the certificate. In all cases, the maiden name of the  
18 gestational mother shall be entered on the certificate.
- 19 (12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to  
20 apply to the state registrar for an amendment of a birth certificate showing as the  
21 surname of the child, any surname chosen by the mother or parents as provided  
22 under this section.
- 23 (13) The birth certificate of a child born as a result of artificial insemination shall be  
24 completed in accordance with the provisions of this section.
- 25 (14) Each birth certificate filed under this section shall include all Social Security  
26 numbers that have been issued to the parents of the child.
- 27 (15) Either of the parents of the child, or other informant, shall attest to the accuracy of

1 the personal data entered on the certificate in time to permit the filing of the  
2 certificate within ten (10) days prescribed in subsection (1) of this section.

3 (16) When a birth certificate is filed for any birth that occurred outside a health  
4 facility~~[an institution]~~, the Cabinet for Health and Family Services shall forward  
5 information regarding the need for an auditory screening for an infant and a list of  
6 options available for obtaining an auditory screening for an infant. The list shall  
7 include the Office for Children with Special Health Care Needs, local health  
8 departments as established in KRS Chapter 212, health facilities~~[hospitals]~~ offering  
9 obstetric or midwifery services, ~~[alternative birthing centers required to provide an~~  
10 ~~auditory screening under KRS 216.2970, ]~~audiological assessment and diagnostic  
11 centers approved by the Office for Children with Special Health Care Needs in  
12 accordance with KRS 211.647 and licensed audiologists, and shall specify the  
13 hearing methods approved by the Office for Children with Special Health Care  
14 Needs in accordance with KRS 216.2970.

15 (17) As used in this section, "health facility" has the same meaning as in Section 2 of  
16 this Act.

17 ➔Section 9. KRS 214.155 is amended to read as follows:

18 (1) The Cabinet for Health and Family Services shall operate a newborn screening  
19 program for heritable and congenital disorders that includes but is not limited to  
20 procedures for conducting initial newborn screening tests on infants twenty-eight  
21 (28) days or less of age and definitive diagnostic evaluations provided by a state  
22 university-based specialty clinic for infants whose initial screening tests resulted in  
23 a positive test. The secretary of the cabinet shall, by administrative regulation  
24 promulgated pursuant to KRS Chapter 13A:

25 (a) Prescribe the times and manner of obtaining a specimen and transferring a  
26 specimen for testing;

27 (b) Prescribe the manner of procedures, testing specimens, and recording and

1 reporting the results of newborn screening tests; and

2 (c) Establish and collect fees to support the newborn screening program.

3 (2) The administrative officer or other person in charge of each **health**  
4 **facility**~~[institution]~~ caring for infants twenty-eight (28) days or less of age and the  
5 person required in pursuance of the provisions of KRS 213.046 shall register the  
6 birth of a child and cause to have administered to every such infant or child in its or  
7 his care tests for heritable disorders, including but not limited to phenylketonuria  
8 (PKU), sickle cell disease, congenital hypothyroidism, galactosemia, medium-chain  
9 acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA  
10 deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD),  
11 maple syrup urine disease (MSUD), congenital adrenal hyperplasia (CAH),  
12 biotinidase disorder, cystic fibrosis (CF), 3-methylcrotonyl-CoA carboxylase  
13 deficiency (3MCC), 3-OH 3-CH<sub>3</sub> glutaric aciduria (HMG), argininosuccinic  
14 acidemia (ASA), beta-ketothiolase deficiency (BKT), carnitine uptake defect  
15 (CUD), citrullinemia (CIT), glutaric acidemia type I (GA I), Hb S/beta-thalassemia  
16 (Hb S/Th), Hb S/C disease (Hb S/C), homocystinuria (HCY), isovaleric acidemia  
17 (IVA), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCAD),  
18 methylmalonic acidemia (Cbl A,B), methylmalonic acidemia mutase deficiency  
19 (MUT), multiple carboxylase deficiency (MCD), propionic acidemia (PA),  
20 trifunctional protein deficiency (TFP), tyrosinemia type I (TYR I), spinal muscular  
21 atrophy (SMA), and krabbe disease. The listing of tests for heritable disorders to be  
22 performed shall include all conditions consistent with the recommendations of the  
23 American College of Medical Genetics.

24 (3) The administrative officer or other person in charge of each **health**  
25 **facility**~~[institution]~~ caring for infants twenty-eight (28) days or less of age and the  
26 person required in pursuance of the provisions of KRS 213.046 shall register the  
27 birth of a child and cause to have administered to every such infant or child in its or

1 his care a screening for critical congenital heart disease (CCHD) prior to discharge  
2 unless CCHD has been ruled out or diagnosed with prior echocardiogram or  
3 prenatal diagnosis of CCHD.

4 (4) Each health care provider of newborn care shall provide an infant's parent or  
5 guardian with information about the newborn screening tests required under  
6 subsections (2) and (3) of this section. The health facility~~[institution]~~ or health care  
7 provider shall arrange for appropriate and timely follow-ups to the newborn  
8 screening tests, including but not limited to additional diagnoses, evaluation, and  
9 treatment when indicated.

10 (5) Nothing in this section shall be construed to require the testing of any child whose  
11 parents are members of a nationally recognized and established church or religious  
12 denomination, the teachings of which are opposed to medical tests, and who object  
13 in writing to the testing of his or her child on that ground.

14 (6) The cabinet shall make available the names and addresses of health care providers,  
15 including but not limited to physicians, nurses, and nutritionists, who may provide  
16 postpartum home visits to any family whose infant or child has tested positive for a  
17 newborn screening test.

18 (7) A parent or guardian shall be provided information by the health  
19 facility~~[institution]~~ or health care provider of newborn care about the availability  
20 and costs of screening tests not specified in subsections (2) and (3) of this section.  
21 The parent or guardian shall be responsible for costs relating to additional screening  
22 tests performed under this subsection, and these costs shall not be included in the  
23 fees established for the cabinet's newborn screening program under subsection (1)  
24 of this section. All positive results of additional screening of these tests shall be  
25 reported to the cabinet by the health facility~~[institution]~~ or health care provider.

26 (8) (a) For the purposes of this subsection, a qualified laboratory means a clinical  
27 laboratory not operated by the cabinet that is accredited pursuant to 42 U.S.C.

1           sec. 263a, licensed to perform newborn screening testing in any state, and  
2           reports its screening results using normal pediatric reference ranges.

3           (b) The cabinet shall enter into agreements with public or private qualified  
4           laboratories to perform newborn screening tests if the laboratory operated by  
5           the cabinet is unable to screen for a condition specified in subsection (2) of  
6           this section.

7           (c) The cabinet may enter into agreements with public or private qualified  
8           laboratories to perform testing for conditions not specified in subsection (2) of  
9           this section. Any agreement entered into under this paragraph shall not  
10          preclude a health facility~~[an institution]~~ or health care provider from  
11          conducting newborn screening tests for conditions not specified in subsections  
12          (2) and (3) of this section by utilizing other public or private qualified  
13          laboratories.

14       (9) The secretary for health and family services or his or her designee shall apply for  
15       any federal funds or grants available through the Public Health Service Act and  
16       may solicit and accept private funds to expand, improve, or evaluate programs to  
17       provide screening, counseling, testing, or specialty services for newborns or  
18       children at risk for heritable disorders.

19       (10) *As used in this section, "health facility" has the same meaning as in Section 2 of*  
20       *this Act.*

21       *(11)* This section shall be cited as the James William Lazzaro and Madison Leigh Heflin  
22       Newborn Screening Act.

23       ➔Section 10. KRS 214.565 is amended to read as follows:

24       As used in KRS 214.565 to 214.571:

25       (1) "Department" means the Department for Public Health in the Cabinet for Health  
26       and Family Services;

27       (2) "Health facility" has the same meaning as in KRS 216B.015; and

1 (3) **"Health care provider" means a licensed provider who has the care of pregnant**  
2 **women within his or her professional scope of practice**~~["Physician" means any~~  
3 ~~person licensed to practice medicine under KRS Chapter 311].~~

4 ➔Section 11. KRS 214.567 is amended to read as follows:

5 (1) The department shall make available to the public on its **website**~~[Web site]~~  
6 educational resources regarding the incidence of congenital cytomegalovirus,  
7 including information about:

- 8 (a) The transmission of congenital cytomegalovirus before and during pregnancy;  
9 (b) Birth defects caused by congenital cytomegalovirus;  
10 (c) Methods of diagnosing congenital cytomegalovirus;  
11 (d) Available preventive measures; and  
12 (e) Resources available to the family of an infant born with congenital  
13 cytomegalovirus.

14 (2) The department may solicit and accept the assistance of relevant medical  
15 associations or community resources to develop, promote, and distribute the public  
16 educational resources.

17 (3) A health facility or **health care provider**~~[physician]~~ providing obstetric or prenatal  
18 services shall provide pregnant women or women who may become pregnant with  
19 the information listed in subsection (1) of this section or provide the patients with a  
20 link to the **website**~~[Web site]~~ described in subsection (1) of this section.

21 ➔Section 12. KRS 214.569 is amended to read as follows:

22 Every infant in this state who is given an auditory screening test described in KRS  
23 216.2970, and fails the initial two (2) screenings or has other risk factors associated with  
24 congenital cytomegalovirus, shall be tested for congenital cytomegalovirus not later than  
25 twenty-one (21) days after the date of birth by the health facility or **health care**  
26 **provider**~~[physician]~~ providing services to the infant, unless the parents or guardians of  
27 the infant opt out of testing.

1           ➔Section 13. KRS 216.2920 is amended to read as follows:

2       As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

- 3       (1) "Ambulatory facility" means an outpatient facility, including an ambulatory  
4       surgical facility, ~~freestanding birth center,~~ freestanding or mobile technology unit,  
5       or an urgent treatment center, that is not part of a hospital and that provides one (1)  
6       or more ambulatory procedures to patients not requiring hospitalization;
- 7       (2) "Cabinet" means the Cabinet for Health and Family Services;
- 8       (3) "Charge" means all amounts billed by a hospital or ambulatory facility, including  
9       charges for all ancillary and support services or procedures, prior to any adjustment  
10      for bad debts, charity contractual allowances, administrative or courtesy discounts,  
11      or similar deductions from revenue. However, if necessary to achieve comparability  
12      of information between providers, charges for the professional services of hospital-  
13      based or ambulatory-facility-based physicians shall be excluded from the  
14      calculation of charge;
- 15      (4) "Facility" means any hospital, health care service, freestanding birthing center, or  
16      other health care facility, whether operated for profit or not;
- 17      (5) "Health care~~Health care~~ provider" or "provider" means any pharmacist as defined  
18      pursuant to KRS Chapter 315, and any of the following independent practicing  
19      practitioners:
- 20      (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
- 21      (b) Chiropractors licensed pursuant to KRS Chapter 312;
- 22      (c) Dentists licensed pursuant to KRS Chapter 313;
- 23      (d) Optometrists licensed pursuant to KRS Chapter 320;
- 24      (e) Physician assistants regulated pursuant to KRS Chapter 311;
- 25      (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
- 26      (g) Other health-care practitioners as determined by the Cabinet for Health and  
27      Family Services by administrative regulation promulgated pursuant to KRS



1 Chapter 13A;

2 (6) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an  
3 acute-care hospital, psychiatric hospital, rehabilitation hospital, or chemical  
4 dependency treatment facility;

5 (7) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic  
6 procedures performed by a provider, as periodically determined by the cabinet in  
7 administrative regulations promulgated pursuant to KRS Chapter 13A as those for  
8 which reports to the cabinet shall be required. "Procedures" also includes  
9 procedures that are provided in hospitals or other ambulatory facilities, or those that  
10 require the use of special equipment, including fluoroscopic equipment, computer  
11 tomographic scanners, magnetic resonance imagers, mammography, ultrasound  
12 equipment, or any other new technology as periodically determined by the cabinet;

13 (8) "Quality" means the extent to which a provider renders care that obtains for patients  
14 optimal health outcomes; and

15 (9) "Secretary" means the secretary of the Cabinet for Health and Family Services.

16 ➔Section 14. KRS 216.2970 is amended to read as follows:

17 (1) As a condition of licensure or relicensure, all health facilities~~[hospitals]~~ offering  
18 obstetric or midwifery services ~~[and alternative birthing centers with at least forty~~  
19 ~~(40) births per year]~~ shall provide an auditory screening for all infants using one (1)  
20 of the methods approved by the Office for Children with Special Health Care Needs  
21 by administrative regulation promulgated in accordance with KRS Chapter 13A.

22 (2) An auditory screening report that indicates a finding of potential hearing loss shall  
23 be forwarded by the health facility~~[hospital or alternative birthing center]~~ within  
24 twenty-four (24) hours of receipt to the:

25 (a) Attending physician or health care provider;

26 (b) Parents;

27 (c) Office for Children with Special Health Care Needs for evaluation or referral

- 1           for further evaluation in accordance with KRS 211.647; and
- 2           (d) Audiological assessment and diagnostic center approved by the office if a
- 3           follow-up assessment has been scheduled prior to the infant's discharge from
- 4           the hospital.
- 5           (3) An auditory screening report that does not indicate a potential hearing loss shall be
- 6           forwarded within one (1) week to the Office for Children with Special Health Care
- 7           Needs with no information that personally identifies the child.
- 8           ➔Section 15. This Act shall be known as the Mary Carol Akers Birth Centers
- 9           Act.