

311.735 Notice to spouse -- Exceptions -- Civil remedies.

- (1) Prior to performing an abortion, the physician who is to perform the abortion or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion is to be performed. If it is not reasonably possible to notify the spouse prior to the abortion, the physician or his agent shall do so, if reasonably possible, within thirty (30) days of the abortion.
- (2)
 - (a) The requirements of this section shall not apply if, before the abortion is performed, either party to a marriage has filed a petition for dissolution of marriage which has been served on the respondent;
 - (b) The requirements of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the cabinet as required by KRS 213.055, and the physician or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion was performed, within thirty (30) days of the abortion.
- (3) Failure to notify a spouse as required by this section is prima facie evidence of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of a husband.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 342, sec. 7, effective July 15, 1982.

Legislative Research Commission Note (6/19/97). KRS 213.055, which is cited within this statute, was repealed by 1990 Ky. Acts ch. 369, sec. 38, effective July 13, 1990.