

**STATEMENT OF EMERGENCY
101 KAR 6:010E**

This emergency administrative regulation is necessary for compliance with the requirement to promulgate administrative regulations to implement the provisions of the Commonwealth of Kentucky Living Organ Donor Leave Program pursuant to KRS 18A.194. The statute is effective July 15, 2020. This administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)3. to meet the deadline to implement the provisions of KRS 18A.194. An ordinary administrative regulation is not sufficient because the effective date of the ordinary regulation would be several months past the effective date of the statute. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
GERINA D. WHETHERS, Secretary

**PERSONNEL CABINET
(New Emergency Administrative Regulation)**

101 KAR 6:010E. Living organ donor leave.

EFFECTIVE: July 15, 2020

RELATES TO: KRS 18A.025, 18A.110

STATUTORY AUTHORITY: KRS 18A.194

NECESSITY, FUNCTION and CONFORMITY: KRS 18A.194 requires the secretary of the Personnel Cabinet to promulgate administrative regulations to implement the provisions of the Commonwealth of Kentucky Organ Donor Leave Program. This administrative regulation establishes living organ donor leave procedures.

Section 1. Eligibility. (1) A full-time employee of the executive, judicial, or legislative branch of the Commonwealth of Kentucky may request to receive paid living organ donor leave.

(2) Eligibility for living organ donor leave shall be limited to donations of bone marrow and any part of a human intestine, kidney, liver, lung, or pancreas.

Section 2. Procedures. (1) An appointing authority shall grant preliminary approval for living organ donor leave after the employee provides verification of a scheduled donation.

(2) An appointing authority shall grant final approval to receive living organ donor leave after the employee provides verification of the completed donation procedure from an appropriate medical professional.

(3) Use of final-approved living organ donor leave shall begin on the date of the completed donation procedure. The leave shall end when the employee returns to work or the leave is exhausted, whichever comes first.

(4) Requests for leave prior to final approval of living organ donor leave, or after living donor leave concludes, shall comply with the employing agency's applicable regulations, policies, and procedures, if any.

(5) Before an employee is permitted to return to work from living organ donor leave, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

Section 3. Restrictions. (1) For a single donation, living donor leave amounts shall not exceed two hundred forty (240) hours for human organ donation and forty (40) hours for bone marrow donation.

(2) Unless approved by the appointing authority, an employee shall not be eligible to claim the unused portion of living organ donor leave after returning to work.

(3) An employee receiving living organ donor leave shall be deemed to be in continuous state service with respect to all employment matters, including pay, benefits, seniority, and probation periods.

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: June 26, 2020

FILED WITH LRC: July 15, 2020 at 8 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements the provisions of the Commonwealth of Kentucky Living Organ Donor Leave Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to communicate eligibility for paid living organ donor leave, and to establish procedures for leave requests, approvals, and leave usage.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.194 requires the secretary of the Personnel Cabinet to promulgate administrative regulations to implement the provisions of the Commonwealth of Kentucky Organ Donor Leave Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation implements the provisions of the Commonwealth of Kentucky Living Organ Donor Leave Program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Full-time employees of the executive, judicial, and legislative branches of the Commonwealth of Kentucky are eligible to request paid living organ donor leave. Eligible employees and their employing agencies are affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Eligible employees and their employing agencies shall comply with the regulation's procedures and restrictions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): For a single donation, employing agencies provide paid living donor leave up to two hundred forty (240) hours for human organ donation and forty (40) hours for bone marrow donation. The Kentucky Employees' Health Plan medical vendor identified ten (10) living donor requests unspecified between bone marrow and organ donation in plan year 2019. Utilizing the average employer paid annual benefits in 2019 and a standard 37.5 work week, it is estimated that living organ donor leave would cost approximately \$46.92 per hour. Assuming 10 state employees utilize the benefit, expenditures could range from \$18,800 to \$112,600, dependent on the type of donation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Living donors receive paid leave up to two hundred forty (240) hours for human organ donation and forty (40) hours for bone marrow donation. Organ donation improves the overall health of the community.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: A new leave code within the Kentucky Human Resource Information System (KHRIS) will cost approximately \$10,000 to program. The employing agency's cost is incurred when the leave benefit is used.

(b) On a continuing basis: There are minimal additional costs anticipated for continuing administration of this regulation. The employing agency's cost is incurred when the leave benefit is used.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Existing agency funds will be used for implementation and enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any new or additional fees.

(9) TIERING: Is tiering applied? No. This administrative regulation treats all impacted entities the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Full-time employees of the executive, judicial, and legislative branches of the Commonwealth of Kentucky are eligible to request paid living organ donor leave. Employing agencies of living donors are impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.194

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? For a single donation, employing agencies provide paid living donor leave up to two hundred forty (240) hours for human organ donation and forty (40) hours for bone marrow donation. The Kentucky Employees' Health Plan medical vendor identified ten (10) living donor requests unspecified between bone marrow and organ donation in plan year 2019. Utilizing the average employer paid annual benefits in 2019 and a standard 37.5 work week, it is estimated that living organ donor leave would cost approximately \$46.92 per hour. Assuming 10 state employees utilize the benefit, expenditures could range from \$18,800 to \$112,600, dependent on the type of donation. In addition, a new leave code within the Kentucky Human Resource Information System (KHRIS) will cost approximately \$10,000 to program.

(d) How much will it cost to administer this program for subsequent years? For a single donation, employing agencies provide paid living donor leave up to two hundred forty (240) hours for human organ donation and forty (40) hours for bone marrow donation. The Kentucky Employees' Health Plan medical vendor identified ten (10) living donor requests unspecified between bone marrow and organ donation in plan year 2019. Utilizing the average employer paid annual benefits in 2019 and a standard 37.5 work week, it is estimated that living organ donor leave would cost approximately \$46.92 per hour. Assuming 10 state employees utilize the benefit, expenditures could range from \$18,800 to \$112,600, dependent on the type of donation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: