

CHAPTER 36**(HB 268)**

AN ACT relating to death-in-the-line-of-duty benefits for the Department of Military Affairs.

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

➔Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section:

- (a) "Police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, any police officer of a public institution of postsecondary education appointed pursuant to KRS 164.950, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state;
- (b) "Firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations; and
- (c) "Emergency medical services personnel" means any paid or volunteer emergency medical services personnel who is certified or licensed pursuant to KRS Chapter 311A and who is employed directly by, or volunteering directly for, any:
 - 1. County;
 - 2. City;
 - 3. Fire protection district created under KRS 75.010 to 75.260; or
 - 4. Emergency ambulance service district created under KRS 108.080 to 108.180;to provide emergency medical services.

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, any police officer of a public institution of postsecondary education appointed pursuant to KRS 164.950, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty under Title 10 or 32 of the United States Code who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general fund of the State Treasury. The spouse of any emergency medical services personnel whose death occurs on or after November 1, 2015, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

- (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and
- (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

- (3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, any metropolitan or urban-county correctional officers with the power of a peace officer pursuant to KRS 446.010, or any jailers or deputy jailers, including but not limited to defining when one has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including but not limited to defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to emergency medical services personnel, including but not limited to which employees or volunteers qualify for coverage and which circumstances constitute death in the line of duty.
- (7) ***The Department of Military Affairs shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to National Guard or Reserve component members, including but not limited to defining which National Guard or Reserve component members qualify for coverage and which circumstances constitute death in the line of duty.***
- ~~(8)(7)~~ The estate of anyone whose spouse or surviving children would be eligible for benefits under subsection (2) of this section, and the estate of any regular member of the United States Armed Forces who names Kentucky as home of record for military purposes whose death occurs as a direct result of an act in the line of duty, shall be exempt from all probate fees, including but not limited to those established by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or imposed under KRS 24A.185, 64.012, and 172.180.
- ~~(9)(8)~~ The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, emergency medical services personnel, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
- ~~(10)(9)~~ Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.
- ~~(11)(10)~~
 - (a) For the purposes of this section, if a firefighter dies as a result of cancer, the death shall be a direct result of an act in the line of duty if the firefighter:
 1. Was a firefighter for at least five (5) consecutive years;
 2. Developed one (1) or more of the cancers listed in paragraph (b) of this subsection which caused the firefighter's death within ten (10) years of separation from service as a firefighter;
 3. Did not use tobacco products for a period of ten (10) years prior to the diagnosis of cancer;
 4. Was under the age of sixty-five (65) at the time of death;
 5. Was not diagnosed with any cancer prior to employment as a firefighter; and
 6. Was exposed while in the course of firefighting to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program, and the carcinogen is reasonably associated with one (1) or more of the cancers listed in paragraph (b) of this subsection.
 - (b) This section shall apply to the following cancers:

1. Bladder cancer;
 2. Brain cancer;
 3. Colon cancer;
 4. Non-Hodgkin's lymphoma;
 5. Kidney cancer;
 6. Liver cancer;
 7. Lymphatic or haematopoietic cancer;
 8. Prostate cancer;
 9. Testicular cancer;
 10. Skin cancer;
 11. Cervical cancer; and
 12. Breast cancer.
- (c)
1. The provisions of this subsection creating an entitlement to the line of duty death benefits shall apply exclusively to this section and shall not be interpreted or otherwise construed to create either an express or implied presumption of work-relatedness for any type of claim filed pursuant to KRS Chapter 342.
 2. This paragraph is intended to provide clarification regarding the sole and exclusive application of this subsection to only the benefits available under this section and shall not be used as a bar or other type of limitation to impair or alter the rights and ability of a claimant to prove work-relatedness under KRS Chapter 342 or other laws.

Signed by Governor March 20, 2017.