

CHAPTER 128

(HB 96)

AN ACT relating to the investigation of fire related crimes.

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

➔Section 1. KRS 15.310 is amended to read as follows:

As used in KRS ~~15.310~~~~15.315~~ to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;
- (3) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404;
- (4) "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- (5) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (6) "Court security officer" means a person required to be certified under KRS 15.380(1)(c) and who is charged with the duties set out in KRS 70.280;
- (7) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
- (8) ***"Fire investigator" means a professional firefighter, as used in KRS 95A.210, who has been appointed to be a fire investigator and to exercise peace officer powers under Section 6 of this Act, or a deputy fire marshal who has been appointed to be a fire investigator and to exercise peace officer powers under Section 10 of this Act;***
- (9) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus police officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- ~~(10)(9)~~ "Peace officer" means a person defined in KRS 446.010, ***or a fire investigator appointed to exercise peace officer powers under Section 6 or 10 of this Act;***
- ~~(11)(10)~~ "Secretary" means the secretary of the Justice and Public Safety Cabinet; and
- ~~(12)(11)~~ "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

➔Section 2. KRS 15.340 is amended to read as follows:

Subject to approval by the secretary, the department may make its facilities and services available upon the following terms:

- (1) The department may determine to which law enforcement agencies, corrections agencies and court agencies and its officers it will offer training;
- (2) In determining the law enforcement officers for which it will offer training and in allocating available funds, the department shall give first priority to "police officers" as defined by KRS 15.420(2), public airport authority security officers and campus police;
- (3) ***Fire investigators shall be offered training by the department;***

- (4) Except for the officers described in subsection (2) of this section, the department may determine whether persons to whom it offers training or agencies employing such persons must bear any or all costs of such training.

➔Section 3. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
- (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university police officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;
 - (i) ***Fire investigators appointed or employed under Section 6 or 10 of this Act;*** and
 - (j) ~~(4)~~ County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
- (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
 - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;

- (d) Jailers;
 - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

➔Section 4. KRS 15.383 is amended to read as follows:

- (1) In order to maintain his or her certification as a peace officer, each certified peace officer shall annually meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140. Each law enforcement agency *or other employing agency* whose officers are required to meet the requirements of this subsection shall retain a record of each of its officers having met the annual marksmanship qualification. These records shall be made available upon request to the Kentucky Law Enforcement Council and to the Justice and Public Safety Cabinet in order to carry out its responsibilities under KRS 15.330 and 15.450.
- (2) Any law enforcement *or other* agency employing a certified peace officer may require the certified peace officer to meet a marksmanship qualification requirement which is in excess of that specified in KRS 237.140. Failure of a certified peace officer to meet the increased marksmanship qualification requirement specified by his or her employing or appointing agency shall not affect the certification of the officer, but may subject the officer to discipline by the agency, including suspension or dismissal of the officer from the agency.

➔Section 5. KRS 15.442 is amended to read as follows:

- (1) A court security officer certified pursuant to KRS 15.380 to 15.404 shall not be a deputy sheriff.
- (2) A court security officer certified *or a fire investigator certified as a peace officer* pursuant to KRS 15.380 to 15.404 shall not be eligible for inclusion in the Kentucky Law Enforcement Foundation Program fund.
- (3) The appointment of a court security officer, whether certified or not, by a sheriff shall not affect the ability of the sheriff or certified deputy sheriffs to participate in the Kentucky Law Enforcement Foundation Program fund if all other requirements for participation in the fund under KRS 15.410 to 15.510 have been met. A sheriff or deputy sheriff who is otherwise eligible under KRS 15.410 to 15.510 for participation in the Kentucky Law Enforcement Foundation Program fund shall not be deemed ineligible because of the appointment of a court security officer by the sheriff or by any other body.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section and Section 8 of this Act, "fire investigator" means a professional firefighter, as defined in KRS 95A.210, who has been appointed to be a fire investigator and to exercise peace officer powers.*
- (2) *The chief of a fire department may appoint a professional firefighter, as defined in KRS 95A.210, to be a fire investigator and to exercise peace officer powers in order to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.*
- (3) *An individual appointed to be a fire investigator and to exercise peace officer powers shall take an oath to faithfully perform the duties of his or her office, shall affirm that he or she possesses the minimum qualifications under Section 12 of this Act, and shall undergo a basic training course approved by the Kentucky Law Enforcement Council.*
- (4) *The employing agency or jurisdiction of the fire investigator shall pay for the training required for certification by the Kentucky Law Enforcement Council.*
- (5) *Upon the Kentucky Law Enforcement Council's verification that the required standards have been met, a fire investigator shall have peace officer powers to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.*
- (6) *A fire investigator may exercise his or her powers in a location other than the city or county in which he or she was appointed upon the request of:*
 - (a) *The chief of police, the chief of a fire department, the sheriff, or the chief executive of the city or county in which the fire investigator's services are to be utilized; or*
 - (b) *A federal agency that has an ongoing investigation in the city or county in which the fire investigator's services are to be utilized.*

(7) *A fire investigator shall not:*

- (a) *Patrol the roads, streets, or highways;*
- (b) *Issue traffic citations; or*
- (c) *Perform general law enforcement duties outside of investigating crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) *All fire investigators appointed to exercise peace officer powers under Section 6 of this Act that are appointed on or after the effective date of this Act, shall, within one (1) year of their appointment or employment, successfully complete a basic training course as established by KRS 15.440 at a school certified or recognized by the Kentucky Law Enforcement Council.*
- (2) *All fire investigators specified in subsection (1) of this section shall, upon completion of the basic training required in the same section, successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.*
- (3) *All fire investigators appointed or employed before the effective date of this Act shall successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.*
- (4) *In the event of extenuating circumstances beyond the control of the fire investigator such as injury, illness, or personal tragedy which prevents the fire investigator from completing the basic or in-service training within the time specified in this section, the officer shall complete the training within one (1) year after return to duty. Any fire investigator who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be removed from an appointment as a fire investigator.*

➔Section 8. KRS 95.500 is amended to read as follows:

- (1) The chief of the fire department in cities or urban-county governments, or an officer acting under his authority, shall be present at all fires and investigate their cause. He may examine witnesses, compel the production of testimony, administer oaths, make arrests, and enter any building for the purpose of examination that, in his opinion, is in danger from fires. He shall report his proceedings to the city legislative body when required.
- (2) The chief shall direct and control the operations of the members of the fire department in the discharge of their duties. He shall have access to and use of all cisterns, fireplugs, the waters of the waterworks, and the cisterns of private persons, for the purpose of extinguishing fires. He shall have the right to examine all cisterns, and all plugs and pipes of the waterworks, to see that they are in condition for use in case of fire. He shall have control of all buildings, hose, engines, and other equipment provided for the fire department. He shall perform such other duties as the legislative body shall, by ordinance, prescribe.
- (3) The fire department of each city listed on the registry pursuant to subsection (5) of this section or urban-county government shall be divided into three (3) platoons of firefighters. Each platoon, excluding the chief, the assistant chief, clerical employees, maintenance employees, fire inspectors, *fire investigators*, and arson investigators, in fire departments in the cities listed on the registry or in urban-county governments, shall be on duty for twenty-four (24) consecutive hours, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of dire emergency. The chief of the fire department shall arrange the schedule of working hours to comply with the provisions of this section. The pay, rank, or benefits of the members and officers of the fire department shall not be reduced as a result of this subsection.
- (4) In each city or urban-county government listed on the registry, all employees of the fire department shall be given not less than two (2) weeks leave of absence annually, with full pay.
- (5) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall be required to comply with the provisions of subsections (3) and (4) of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second class on August 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 9. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of housing, buildings and construction;
- (2) "Department" means the Department of Housing, Buildings and Construction;
- (3) **"Fire investigator" means a deputy fire marshal who has been appointed by the state fire marshal to be a fire investigator and to exercise peace officer powers in order to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.**
- (4) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning, or explosion;
- ~~(5)(4)~~ "Owner" means any person who owns, occupies, or has charge of any property;
- ~~(6)(5)~~ "Property" means property of all types, both real and personal, movable and immovable;
- ~~(7)(6)~~ "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;
- ~~(8)(7)~~ "Order" or "special order" means an order of the state fire marshal, designed for the prevention of fire loss, that affects or may affect the property rights of a particular owner or designated property.

➔Section 10. KRS 227.220 is amended to read as follows:

- (1) The state fire marshal shall enforce or aid in the enforcement of all laws, administrative regulations, and ordinances of the state and its political subdivisions relating to fire loss as defined in KRS 227.200:
 - (a) The prevention or reduction of loss by fire or by other hazard or risk insured by property or casualty insurance companies doing business in this state, except as to disability insurance and workers' compensation, and shall enforce any other regulations or methods adopted for the prevention of loss from such hazards or risks in order to promote the safety of persons or property;
 - (b) The manufacture, transportation, storage, sale, or use of combustibles, explosives, and hazardous materials or equipment;
 - (c) The design, construction, and maintenance of property which has a direct bearing on safety to life and property;
 - (d) The construction, installation, maintenance, or equipment of fire alarm systems, fire protection and extinguishing equipment, and fire escapes and other means of access to or exit from property; and
 - (e) Arson and related offenses.
- (2) The chief state building official shall enforce and administer all applicable provisions of the Kentucky Building Code, including all the provisions designed for the prevention of fire loss, and shall have all the powers and duties awarded by KRS Chapter 198B and the Kentucky Building Code.
- (3) The state fire marshal is authorized to:
 - (a) Investigate the cause, origin, and circumstances of fires and explosions for the purpose of detecting and suppressing arson and related offenses, or for the purpose of minimizing or preventing fire loss;
 - (b) Supervise and make periodic inspections of all property within the state, and assist cities having fire departments in making like periodic inspections of all property in cities, except occupied private dwellings;
 - (c) Issue and enforce reasonable emergency orders and orders in accordance with KRS 227.330 for the prevention of fire loss, and for the adoption, approval, and installation of safety measures, remodeling, and equipment as will minimize fire loss;
 - (d) Provide technical and engineering advice and assistance to state and local governmental agencies in relation to fire prevention or fire protection;
 - (e) Direct and assist owners of educational institutions, places of public assembly, institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills;
 - (f) Conduct fire prevention and educational campaigns;

- (g) Conduct examinations into the cause, origin, or circumstances of fire losses;
 - (h) Hold administrative hearings in accordance with the KRS Chapter 13B, as may be required by law or deemed by the state fire marshal necessary or desirable as to any matter within the scope of this chapter. All administrative hearings shall be public, unless the state fire marshal, or an authorized designee, determines that a private hearing would be in the public interest, in which case, and only with the consent of all parties to the hearing, the hearing shall be private;
 - (i) Direct research in the field of fire protection and accept gifts and grants for these purposes;
 - (j) **Appoint deputy fire marshals to be fire investigators;** and
 - (k)~~(j)~~ Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.
- (4) The state fire marshal shall head the Division of Fire Prevention in the department.

➔SECTION 11. A NEW SECTION OF KRS 227.200 TO 227.400 IS CREATED TO READ AS FOLLOWS:

- (1) ***A deputy fire marshal appointed to be a fire investigator and to exercise peace officer powers shall take an oath to faithfully perform the duties of his or her office, shall affirm that he or she possesses the minimum qualifications under Section 12 of this Act, and shall undergo a basic training course approved by the Kentucky Law Enforcement Council.***
- (2) ***The employing agency of the deputy fire marshal shall pay for the training required for certification by the Kentucky Law Enforcement Council.***
- (3) ***Upon the Kentucky Law Enforcement Council's verification that the required standards have been met, a fire investigator shall have peace officer powers to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.***
- (4) ***A fire investigator shall not:***
 - (a) ***Patrol the roads, streets, or highways;***
 - (b) ***Issue traffic citations; or***
 - (c) ***Perform general law enforcement duties outside of investigating crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.***
- (5) ***All fire investigators appointed to exercise peace officer powers under Section 10 of this Act that are appointed on or after the effective date of this Act, shall, within one (1) year of their appointment or employment, successfully complete a basic training course as established by KRS 15.440 at a school certified or recognized by the Kentucky Law Enforcement Council.***
- (6) ***All fire investigators specified in subsection (5) of this section shall, upon completion of the basic training required, successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.***
- (7) ***All fire investigators appointed or employed before the effective date of this Act shall successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.***
- (8) ***In the event of extenuating circumstances beyond the control of the fire investigator such as injury, illness, or personal tragedy which prevents the fire investigator from completing the basic or in-service training within the time specified in this section, the officer shall complete the training within one (1) year after return to duty. Any fire investigator who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be removed from an appointment as a fire investigator.***

➔Section 12. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

- (1) Be a citizen of the United States;
- (2) Be at least twenty-one (21) years of age;

- (3) (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or
(b) Possess a High School Equivalency Diploma;
- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation and provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS ~~15.310~~~~{15.315}~~ to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS ~~15.310~~~~{15.315}~~ to 15.510;
- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS ~~15.310~~~~{15.315}~~ to 15.510;
- (13) Have been interviewed by the employing agency;
- (14) Not have had certification as a peace officer permanently revoked in another state;
- (15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS ~~15.310~~~~{15.315}~~ to 15.510;
- (16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS ~~15.310~~~~{15.315}~~ to 15.510; and
- (17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS ~~15.310~~~~{15.315}~~ to 15.510.

➔Section 13. This Act takes effect January 1, 2019.

Signed by Governor April 10, 2018.

