

CHAPTER 94**(HB 562)**

AN ACT relating to first responders.

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

➔Section 1. KRS 15.518 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Commissioner" means the commissioner of the department;
 - (b) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
 - (c) "Fund" means the Law Enforcement Professional Development and Wellness Program fund established in subsection (8) of this section; and
 - (d) "Program" means the Law Enforcement Professional Development and Wellness Program established in this section.
- (2) The department shall develop a Law Enforcement Professional Development and Wellness Program.
- (3) The program shall use seminar-based peer support and counseling services designed to reduce negative mental and behavioral health outcomes.
- (4) The program shall be offered to Kentucky law enforcement officers at least two (2) times each calendar year.
- (5) On a limited basis, the program may be offered to law enforcement officers from states other than Kentucky upon application to and approval by the commissioner. However, no Kentucky law enforcement officers may be denied admission to the program if law enforcement officers from another state are admitted to the program.
- (6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section. The administrative regulations shall address, at a minimum:
 - (a) The required qualifications and duties of any person used by the department to implement or administer the program;
 - (b) The curriculum, programming, seminar type, and treatment modalities used in the program;
 - (c) The extent to which a participating officer's relatives or friends may participate in seminars;
 - (d) The standards by which law enforcement officers from other states may be accepted into the program by the commissioner; and
 - (e) A protocol for establishing reciprocity for interagency assistance with other state, federal, and tribal law enforcement agencies and officers in administering the program.
- (7)
 - (a) Except as provided in paragraphs (b) and (c) of this subsection, communications, identifying data, and any reports made in the application for or in the course of an officer's participation in the program shall be confidential and privileged from disclosure in any civil or criminal proceeding and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power, regardless of who possesses them. The participating officer is the holder of the privilege.
 - (b) The department may use anonymous data for research, statistical analysis, and educational purposes.
 - (c) Any communication making an actual threat of physical violence against a clearly identified or reasonably identifiable victim or an actual threat of some specific violent act may be revealed by the program in order to prevent the commission of any physical violence or violent act using the protocol established in KRS 202A.400.
- (8)
 - (a) There is hereby established in the State Treasury a restricted fund to be known as the Law Enforcement Professional Development and Wellness Program fund.

- (b) The fund shall consist of moneys received from the Kentucky Law Enforcement Foundation Program fund established in KRS 15.430, grants, gifts, state appropriations, and federal funds.
 - (c) The fund shall be administered by the department.
 - (d) Amounts deposited in the fund shall be used only for administration of the program.
 - (e) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.
 - (f) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
 - (g) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.
- (9) (a) ***For the purposes of this subsection, "critical incident" means any event that has a stressful impact sufficient enough to overwhelm a peace officer's usual coping strategies. These events may include:***
- 1. ***An officer-involved shooting;***
 - 2. ***A vehicle crash resulting in serious injury or death to an officer or citizen;***
 - 3. ***An officer being the victim of a felonious assault;***
 - 4. ***The death of a colleague or partner;***
 - 5. ***The death of, or serious injury to, a person in the custody of the officer;***
 - 6. ***The severe injury to, or death of, a child, particularly if the officer has a child of or near the same age; or***
 - 7. ***An incident involving multiple deaths or injuries in a short amount of time.***
- (b) ***Any peace officer involved directly in a critical incident may take up to forty-eight (48) hours of leave immediately following a critical incident. This leave may commence upon:***
- 1. ***The completion of that peace officer's shift encompassing the critical incident, or when all necessary administrative procedures relating to a critical incident have been completed; and***
 - 2. ***The officer informs his or her supervisor.***
- (c) ***This leave may be unpaid or paid leave. The pay status is to be determined by the officer's employment contract, collective labor agreement if any, or by written departmental policy.***
- (d) ***This subsection shall not be construed to set aside any employment contract, labor agreement, or departmental policies that grant more than forty-eight (48) hours of leave following an officer involved critical incident.***

➔Section 2. KRS 95A.292 is amended to read as follows:

- (1) The commission shall establish the Alan "Chip" Terry Professional Development and Wellness Program for firefighters.
- (2) The program shall:
 - (a) Use seminar-based peer support and counseling services designed to reduce negative mental and behavioral health outcomes; and
 - (b) Be offered to Kentucky professional and volunteer firefighters in Kentucky at least two (2) times each calendar year.
- (3) On a limited basis, the program may be offered to professional and volunteer firefighters from states other than Kentucky upon application to and approval by the executive director. However, no Kentucky professional and volunteer firefighters may be denied admission to the program if professional and volunteer firefighters from another state are admitted to the program.
- (4) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section. The administrative regulations shall address, at a minimum:
 - (a) The required qualifications and duties of any person used by the commission to implement or administer the program;

- (b) The curriculum, programming, seminar type, and treatment modalities used in the program;
 - (c) The extent to which a participating firefighter's relatives or friends may participate in seminars;
 - (d) The standards by which professional and volunteer firefighters from other states may be accepted into the program by the executive director; and
 - (e) A protocol for establishing reciprocity for interagency assistance with other state, federal, and tribal professional and volunteer firefighters in administering the program.
- (5) (a) Except as provided in paragraphs (b) and (c) of this subsection, communications, identifying data, and any reports made in the application for or in the course of a firefighter's participation in the program shall be confidential and privileged from disclosure in any civil or criminal proceeding and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power, regardless of who possesses them. The participating firefighter is the holder of the privilege.
- (b) The commission may use anonymous data for research, statistical analysis, and educational purposes.
 - (c) Any communication making an actual threat of physical violence against a clearly identified or reasonably identifiable victim or an actual threat of some specific violent act may be revealed by the program in order to prevent the commission of any physical violence or violent act using the protocol established in KRS 202A.400.
- (6) (a) There is hereby established in the State Treasury a restricted fund to be known as the professional and volunteer firefighters professional development and wellness program fund.
- (b) The fund shall consist of moneys received from the Firefighters Foundation Program Fund established in KRS 95A.220, grants, gifts, state appropriations, and federal funds.
 - (c) The fund shall be administered by the commission.
 - (d) Amounts deposited in the fund shall be used only for administration of the program.
 - (e) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.
 - (f) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
 - (g) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.
- (7) (a) ***For the purposes of this subsection, "critical incident" means any event that has a stressful impact sufficient enough to overwhelm a firefighter's usual coping strategies. These events may include:***
1. ***A fire or vehicle crash resulting in serious injury or death to a first responder or citizen;***
 2. ***A firefighter being the victim of a felonious assault;***
 3. ***The death of a colleague or partner;***
 4. ***A death of, or serious injury to, a person in the medical care of the firefighter;***
 5. ***The severe injury to, or death of, a child, particularly if the firefighter has a child of or near the same age; or***
 6. ***An incident involving multiple deaths or injuries in a short amount of time.***
- (b) ***Any firefighter involved directly in a critical incident may take up to forty-eight (48) hours of leave immediately following a critical incident. This leave may commence upon:***
1. ***The completion of that firefighter's shift encompassing the critical incident, or when all necessary administrative procedures relating to a critical incident have been completed; and***
 2. ***The firefighter informs his or her supervisor.***
- (c) ***For regular firefighters, this leave may be unpaid or paid leave. The pay status is to be determined by the firefighter's employment contract, collective labor agreement if any, or by written departmental policy. This subsection shall not be construed to set aside any employment contract, labor agreement,***

or departmental policies that grant more than forty-eight (48) hours of leave following an officer involved critical incident.

- (d) *For volunteer firefighters, this leave may be unpaid or paid leave. The pay status is to be determined by the firefighter's written departmental policy.*

➔Section 3. KRS 337.100 is amended to read as follows:

- (1) No employer shall terminate an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency because that employee, when acting as a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency, is absent or late to the employee's employment in order to respond to an emergency prior to the time the employee is to report to his or her place of employment.
- (2) ***No employer shall terminate an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency because that employee, when acting as a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency, takes leave following a critical incident pursuant to Sections 1 and 2 of this Act.***
- ~~(3)(2)~~ An employer may charge any time that an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or a member of an emergency management agency loses from employment because of the employee's response to an emergency against the employee's regular pay.
- ~~(4)(3)~~ An employer may request an employee who loses time from the employee's employment to respond to an emergency to provide the employer with a written statement from the supervisor or acting supervisor of the volunteer fire department, rescue squad, emergency medical services agency, law enforcement agency, or the director of the emergency management agency stating that the employee responded to an emergency and listing the time and date of the emergency.
- ~~(5)(4)~~ No employer shall terminate an employee who is a volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or member of an emergency management agency who is absent for a period of no more than twelve (12) months from the employee's employment because of injuries incurred in the line of duty. The volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or member of an emergency management agency shall provide, at the request of his or her employer:
 - (a) A written statement from the supervisor, acting supervisor, or director of the volunteer fire department, rescue squad, emergency medical services agency, law enforcement agency, or emergency management agency under whose command the employee was on active duty and on assignment with that fire department, rescue squad, emergency medical services agency, law enforcement agency, or emergency management agency when the injury occurred; and
 - (b) A written statement from at least one (1) licensed and practicing physician stating that the volunteer firefighter, rescue squad member, emergency medical technician, peace officer, or member of an emergency management agency is injured and a date for the employee's return to work.
- ~~(6)(5)~~ Any employee that is terminated in violation of the provisions of this section may bring a civil action against his or her employer. The employee may seek reinstatement to the employee's former position, payment of back wages, reinstatement of fringe benefits, and where seniority rights are granted, the reinstatement of seniority rights. In order to recover, the employee shall file this action within one (1) year of the date of the violation of this section.

Signed by Governor April 8, 2022.