

**JUSTICE AND PUBLIC SAFETY CABINET
(Amendment)**

500 KAR 1:010. Definitions for 500 KAR Chapter 1.

RELATES TO: KRS 61.315, 83A.087, 87A.088, 183.881, 446.010

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(2) authorizes payment to the surviving spouse and surviving children or parents of a police officer who dies in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations applicable to the administration of payments, including defining when one has died in the line of duty. This administrative regulation establishes~~provides~~ the definitions ~~of certain terms used in 500 KAR Chapter 1~~ ~~which pertain to criteria and procedures applicable to the administration of benefits paid on death of police officers who have died in the line of duty, as required by KRS 61.315(4) to be promulgated by the Justice Cabinet.~~

Section 1. Definitions. The following definitions shall apply in this chapter:

(1) "Act in the line of duty" means an activity or an action performed by a police officer, related to public safety, and that the police officer is obligated or authorized by statute, rule, regulation, condition or policy of employment or service, official mutual-aid agreement, or other law to perform, including any social, ceremonial, athletic functions, any official training programs of the public agency to which the police officer is assigned or for which the police officer is compensated, under the auspices of the public safety agency, organization, or unit he or she serves, and the public safety agency, organization, or unit legally recognizes that activity or action to have been so obligated or authorized at the time performed. This definition shall include authorized commuting.

(2) "Authorized commuting" means travel, not being a frolic or detour, by a police officer to and from an official training program authorized or required by the police officer's public safety agency, organization, or unit.

(3) "Cabinet" means the Justice and Public Safety Cabinet.

(4) "Child" means any natural, adopted, or posthumous child or child born out of wedlock of the deceased police officer who, at the time of the officer's death, is living or later is born alive.

(5) "Claim administrator" means the individual at the cabinet assigned by the secretary to review and process line of duty death benefits claims.

(6) "Claimant" means an individual who has filed a claim for death benefits pursuant to KRS 61.315 on his own behalf or on whose behalf a claim has been filed.

(7) "Death" means the death of the police officer as a result of an act in the line of duty, including a death that is a direct result of a traumatic injury, wound, condition of the body, disease, or medical treatment received as a direct result from an act in the line of duty. This definition shall not include a death resulting from:

(a) A nonwork-related disease or condition or a routine work-related disease or condition common to the officer's occupation;

(b) Intentional misconduct of the police officer;

(c) The police officer's intention to bring about his death;

(d) The police officer's willfulness or wanton disregard that brings about his death; or

(e) Voluntary intoxication of the police officer which is a contributing factor of the death.

(8) "Determination" means the approval or denial of a claim.

(9) "Direct result" or "direct and proximate cause" means something that is a substantial factor in bringing a condition about.

(10) "Eligible survivor" means a spouse, child, or parent:

(a) Described in KRS 61.315(2) as being entitled to a benefit for the death of a police officer in the line of duty; and

(b) Who meets the requirements for payment described in KRS 61.315(2).

(11) "Heart attack" means:

(a) A myocardial infarction; or

(b) A cardiac event including cessation, interruption, arrest, or other similar disturbance of heart function that is:

1. Acute; and

2. Directly and proximately caused by a pathology, or pathological condition of the heart or of the coronary arteries.

(12) "Nonroutine strenuous physical activity" means an act in the line of duty that:

(a) Is not of a clerical, administrative, or nonmanual nature;

(b) Is not performed as a matter of routine; and

(c) Entails an unusually high level of physical exertion.

(13) "Nonroutine stressful physical activity" means an act in the line of duty that:

(a) Is not of a clerical, administrative, or nonmanual nature;

(b) Is not performed as a matter of routine;

(c) Entails non-negligible physical exertion; and

(d) Occurs under circumstances that objectively and reasonably:

1. Pose or simulate, in a realistic fashion, situations that pose significant dangers, threats, or hazards not faced by similarly-situated members of the public in the ordinary course; and

2. Provoke an unusually high level of alarm, fear, or anxiety.

(14) "Office of the Secretary" means the office of the secretary of the cabinet at 125 Holmes St, Frankfort, Kentucky 40601.

(15) "Officer" or "police officer" is defined by KRS 61.315(1)(a).

(16) "Parent" means a natural or adoptive parent of the police officer living at the time of the police officer's death.

(17) "Posthumous child" means a biological child of the officer, and the officer is:

(a) Alive at the time of the child's conception; and

(b) Deceased at or before the time of the child's birth.

(18) "Secretary" means the secretary of the cabinet.

(19) "Spouse" means the lawfully wedded husband or wife of the deceased police officer living at the time of the officer's death and includes a spouse living apart from the officer at the time of the officer's death for any reason or a spouse involved in divorce proceedings if a final divorce decree has not been entered at the time of the police officer's death.

(20) "Stroke" means a cerebrovascular incident.

(21) "Substantial factor" means a factor that substantially brings about an event, if:

(a) The factor alone was sufficient to have caused the event; or

(b) No other factor or combination of factors contributed to the event to so great a degree as the factor in question. [{"Secretary" means the Secretary of the Justice Cabinet.}]

~~[(2)] [{"Cabinet" means the Justice Cabinet.}]~~

~~[(3)] [{"Police officer" means every paid police officer, sheriff or deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS Chapter 83A, elected to office or employed by any Kentucky county or city, or by the state, or by an airport board created pursuant to KRS~~

~~Chapter 183, or any member of the Kentucky National Guard on state active duty pursuant to KRS 38.030.]~~

~~[(4)] ["Claimant" means spouse, child or parent who files a claim for death benefits pursuant to KRS 61.315 with the Justice Cabinet.]~~

~~[(5)] ["Spouse" means the lawfully wedded husband or wife of the deceased police officer living at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason or a spouse involved in divorce proceedings if a final divorce decree has not been entered.]~~

~~[(6)] ["Children" means any natural, adopted or posthumous child or child born out of wedlock of the deceased police officer who, at the time of the officer's death is living or later is born alive.]~~

~~[(7)] ["Parent" means a natural or adoptive parent of the police officer living at the time of the police officer's death.]~~

~~[(8)] ["Death as a direct result of an act" means that the antecedent act, omission to act or event inflicted upon the police officer was the substantial factor in the result of the police officer's death.]~~

~~[(9)] ["Death" means the immediate death of the police officer from an act in the line of duty that resulted in his death, as well as a traumatic injury, wound, condition of the body or disease resulting therefrom or medical attention therefor that directly causes the death of the officer.]~~

~~[(10)] ["Act in the line of duty" means an act or omission to act by the police officer or event involving the police officer or external force upon the police officer while the officer is engaged in any action or duty which the officer is obligated or authorized by rule, administrative regulation, condition of employment or service, or law to perform for the public agency or office the police officer serves. Specifically, an act is not in the line of duty if the death was caused by:]~~

~~[(a)] [A nonwork related disease or condition or a routine work related disease or condition common to the officer's occupation;]~~

~~[(b)] [Intentional misconduct of the police officer;]~~

~~[(c)] [The police officer's intention to bring about his death;]~~

~~[(d)] [The police officer's willfulness or wanton disregard that brings about his death;]~~

~~[(e)] [Voluntary intoxication of the police officer which is a contributing factor of the death; or]~~

~~[(f)] [If the actions or omissions of the beneficiary was a substantial factor in the death of the police officer, recovery being precluded as to that beneficiary only.]~~

~~[(11)] ["Office of the Secretary" as used herein means the person designated by the secretary of the cabinet to receive, process and make eligibility determinations on claims for benefits to be paid on death of a police officer pursuant to KRS 61.315. The address of the Office of the Secretary for filing claims is: Assistant General Counsel, Justice and Public Safety Cabinet, Office of Legal Services, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102.]~~

KEITH JACKSON, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held Tuesday, November 26, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is

open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goens, Staff Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Nathan Goens

(1) Provide a brief summary of:

(a) What this administrative regulation does:

The regulation establishes the definitions used in 500 KAR Chapter 1.

(b) The necessity of this administrative regulation:

KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The regulation is necessary to provide an understanding of the requirements related to filing a claim for line of duty death benefits for those seeking benefits. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The administrative regulation establishes the definitions that govern line of duty death benefits for police officers. It provides direction and information to Justice and Public Safety Cabinet employees tasked with processing benefit claims and members of the public filing benefit claims.

(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:

The amendment of this administrative regulation defines new terms and amends the definitions of existing terms related to the filing and processing of claims for line of duty death benefits.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to provide clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public filing line of duty death benefit claims.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How the amendment will assist in the effective administration of the statutes:

This amendment provides clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public filing line of duty death benefit claims.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This regulation will affect the Justice and Public Safety Cabinet employees responsible for processing line of duty death benefit claims as well as those members of the public

seeking line of duty death benefits.

(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:

Justice and Public Safety Cabinet employees and members of the public will have to become familiar with the terms and their definitions when filing and processing line of duty death benefit claims.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There will be no pecuniary cost associated with complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

As a result of compliance with the administrative regulation, Justice and Public Safety Cabinet employees and the members of the public seeking line of duty death benefits will better understand how to file and process line of duty death benefit claims.

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

(a) Initially:

There will not be an initial cost to implement this regulation as it only provides definitions for the chapter in which the regulation is found.

(b) On a continuing basis:

There will not be a continuing cost to implement this regulation as it only provides definitions for the chapter in which the regulation is found.

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

While this regulation does not require funding, administrative costs associated with the Chapter in which this regulation is located are funded through Agency funds and line of duty death benefits are paid to claimants from the general fund budget reserve trust fund.

(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:

The administrative regulation does not establish any fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied?

No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 61.315, 83A.087, 87A.088, 183.881, 446.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Justice and Public Safety Cabinet.

(a) Estimate the following for the first year:

Expenditures:The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to increase expenditures.

Revenues:The administrative regulation does not generate revenue.

Cost Savings:Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

No affected local entities have been identified.

(a) Estimate the following for the first year:

Expenditures:No affected local entities have been identified.

Revenues:No affected local entities have been identified.

Cost Savings:No affected local entities have been identified.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Because no affected local entities have been identified, there will be no expenditures, revenues, or cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Members of the public who wish to file a claim for line of duty death benefits will be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures:Members of the public seeking line of duty death benefits will need to expend an unknown amount of time to become familiar with the claim benefit definitions prior to filing a claim. An amount for expenditures is unknown.

Revenues:The administrative regulation does not generate revenue.

Cost Savings:Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to have a fiscal impact.

(b) Methodology and resources used to determine the fiscal impact:

The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and a fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion:

The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and an overall negative or adverse major economic impact was not identified.