

**OFFICE OF ATTORNEY GENERAL**  
**Kentucky Office of Regulatory Relief**  
**(Amendment)**

**40 KAR 12:100. Funeral planning declaration form.**

RELATES TO: KRS ~~311.1911~~ ~~set seq~~, 367.93101, 367.93103, 367.93105, 367.93107, 367.93109, 367.93111, 367.93113, 367.93115, 367.93117, 367.93121, 367.97501, 367.97514, 367.97524, 367.97527

STATUTORY AUTHORITY: KRS ~~15.180~~, ~~367.150~~(4), 367.93101(3)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation amendment complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.93101(3) requires the ~~Office of the~~ Attorney General to promulgate administrative regulations to prescribe a funeral planning declaration form. KRS 367.93103 prohibits the inclusion of a funeral planning declaration in a power of attorney. This administrative regulation prescribes the funeral planning declaration form ~~identified in KRS 367.93101(3) and described in KRS 367.93101 to 367.93121,~~ by which an individual ~~declarant~~ may ~~establish~~ ~~set forth~~ funeral arrangements and his or her ~~the declarant's~~ preferences regarding the ~~manner of~~ disposition of their human ~~the declarant's~~ remains and clarifies how an agent with power of attorney may sign a declaration on behalf of a Declarant.

Section 1. Funeral Planning Declaration. An individual desiring to plan for his or her funeral or the disposition of his or her human remains after death shall complete a ~~The~~ Funeral Planning Declaration ~~,~~ Form, FPD-1, setting forth his or her preferences. ~~required by KRS 367.93101(3), shall contain:~~

~~[(1)] [The date the declaration is made;]~~

~~[(2)] [The name of the declarant;]~~

~~[(3)] [A statement providing that the declarant shall be at least eighteen (18) years of age and of sound mind;]~~

~~[(4)] [A statement providing that the declarant willingly and voluntarily makes known the declarant's instructions concerning funeral services, funeral and cemetery merchandise, ceremonies, and the disposition of the declarant's remains after the declarant's death;]~~

~~[(5)] [A statement that by executing the declaration any previous declaration is revoked;]~~

~~[(6)] [Statements informing the declarant of the following concerning a designee:]~~

~~[(a)] [A designee is an individual designated and directed by the terms of the declaration to carry out the declarant's funeral plan or make arrangements concerning disposition of the declarant's remains, funeral services, cemetery merchandise, funeral merchandise, or ceremonies;]~~

~~[(b)] [If the declarant does not designate a designee in the declaration, the declarant shall provide instructions concerning funeral services, ceremonies, and the disposition of the declarant's remains;]~~

~~[(c)] [A person is not considered to be entitled to any part of the declarant's estate solely by virtue of being designated in the declaration to serve as the declarant's designee;]~~

~~[(d)] [The declarant's designee shall not be a provider of funeral or cemetery services, or employed by any entity responsible for providing funeral or cemetery services or~~

~~disposing of the declarant's remains, unless the designee is related to the declarant by birth, marriage, or adoption;]~~

~~[(c)] [A designee shall not be a witness to the declaration; and]~~

~~[(f)] [If the designee or alternate designee fail to assume an obligation set forth in the Funeral Planning Declaration, Form FPD-1, within five (5) days of notification of the declarant's death, the authority to make arrangements shall devolve pursuant to the terms of the Funeral Planning Declaration, Form FPD-1, or KRS 367.93117;]~~

~~[(7)] [If the declarant elects, a statement identifying the name of a designee who shall carry out the instructions that are set forth in the declaration;]~~

~~[(8)] [If the declarant elects to name an alternate designee, a statement identifying the name of an alternate designee if the designee is unwilling or unable to act;]~~

~~[(9)] [If the declarant elects to not select a designee, a statement that the declarant elects to not select a designee and that the declarant directs that the instructions listed in the declaration for funeral services, ceremonies, and the disposition of the declarant's remains be followed;]~~

~~[(10)] Instructions for actions to be taken after the declarant's death, indicating by initials or marks beside each instruction selected by the declarant, from the following:~~

~~[(a)] [Concerning disposition of the declarant's body, one (1) of the following:]~~

~~[1.] [The declarant directs that the declarant's body be buried and, if so, where;]~~

~~[2.] [The declarant directs that the declarant's cremated remains be disposed of by one (1) of the following methods, or, if no method of disposition is selected, the declarant leaves the decision to the designee:]~~

~~[a.] [By placing the cremated remains in a grave, crypt, or niche and, if so, where;]~~

~~[b.] [By scattering them in a scattering area; or]~~

~~[c.] [On private property with the consent of the owner;]~~

~~[3.] [The declarant directs that the declarant's body be entombed and, if so, where;]~~

~~[4.] [The declarant directs that the declarant's body be donated as an anatomical gift pursuant to KRS 311.1911, et. seq., if the declarant has not selected another method for donation of the declarant's body; or]~~

~~[5.] [The declarant intentionally makes no decision concerning the disposition of the declarant's body and leaves the decision to the designee;]~~

~~[(b)] [Concerning arrangements, any of the following selected by the declarant:]~~

~~[1.] [The declarant directs that funeral services be obtained and, if so, from whom, or, if no person from whom to obtain funeral services is selected, then the designee may decide;]~~

~~[2.] [The declarant directs that funeral and ceremonial arrangements are to be made and, if so, providing instructions regarding the funeral and ceremonial arrangements;]~~

~~[3.] [The declarant directs the selection of a grave memorial, monument, or marker, and, if so, providing instructions regarding the grave memorial, monument, or marker;]~~

~~[4.] [The declarant directs the selection of funeral and cemetery merchandise and other property for the disposition of the declarant's remains, funeral, or other ceremonial arrangements, and, if so, providing instructions regarding the funeral and cemetery merchandise and other property for the disposition of the declarant's remains, funeral, or other ceremonial arrangements; or]~~

~~[5.] [The declarant directs that the designee make all arrangements concerning ceremonies and other funeral or burial services;]~~

~~[(c)] [Any additional instructions requested by the declarant; and]~~

~~[(d)] [A statement that the declarant directs that the declarant's designee make alternate arrangements to the best of the designee's ability if it is impossible to make an~~

arrangement] [~~specified in the Funeral Planning Declaration, Form FPD-1, because:~~  
[1.] ~~[A funeral home or other service or merchandise provider is out of business, impossible to locate, or otherwise unable to provide the specified service; or]~~  
[2.] ~~[The specified arrangement is impossible, illegal, or exceeds the funds available or is inconsistent with the terms of the pre-arranged funeral or cemetery contract;]~~  
{(11)} ~~[A statement that it is the declarant's intention that the declarant's Funeral Planning Declaration, Form FPD-1, be honored by the declarant's family and others as the final expression of the declarant's intentions concerning the declarant's funeral and the disposition of the declarant's body after the declarant's death, and that the declarant understands the full import of this declaration;]~~  
{(12)} ~~[Concerning execution of the Funeral Planning Declaration, Form FPD-1:]~~  
    ~~[(a)] [The signature of the declarant or another person in the declarant's presence and at the declarant's direction, the signature date, and the city, county, and state of the declarant's residence; and]~~  
    ~~[(b)] [If applicable, the printed name of the person who signed at the declarant's direction;]~~  
{(13)} ~~[The signatures of two (2) witnesses, printed name, and date of signature of each witness, immediately following a statement that each witness believes;]~~  
    ~~[(a)] [The declarant to be of sound mind and to have willfully and voluntarily executed the Funeral Planning Declaration, Form FPD-1;]~~  
    ~~[(b)] [That the witness did not sign the declarant's signature or at the direction of the declarant;]~~  
    ~~[(c)] [That the witness is not a designee of the declarant;]~~  
    ~~[(d)] [That the declarant signed the declaration in the presence of the witness; and]~~  
    ~~[(e)] [That the witness is competent and at least eighteen (18) years of age; and]~~  
{(14)} ~~[An acknowledgement before a notary public or other person authorized to administer oaths, including the signature and title of the notary public or other person authorized to administer oaths, and the date of the signature, immediately following a statement that the declarant appeared before the notary public or other person authorized to administer oaths and acknowledged that the declarant voluntarily dated and signed the Funeral Planning Declaration, Form FPD-1, or directed the Funeral Planning Declaration, Form FPD-1, to be signed and] [~~dated in the declarant's presence, and the date of the acknowledgement.~~]~~

Section 2. Power or Attorney. An agent granted authority to act for a principal under a power of attorney cannot sign a Funeral Planning Declaration, Form FPD-1, as a Declarant, but must be directed by the Declarant to sign the Funeral Planning Declaration, Form FPD-1, in the presence of the Declarant and the two (2) required witnesses.

Section 3. Incorporation by Reference.

- (1) "Funeral Planning Declaration", Form FPD-1, Oct. 2025~~[04-17]~~, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East~~[Office of Consumer Protection]~~, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Attorney General's website, <https://ag.ky.gov/Pages/default.aspx>.

*STEPHEN B. HUMPHRESS, Executive Director*  
*RUSSELL COLEMAN, Attorney General*

APPROVED BY AGENCY: October 14, 2025  
FILED WITH LRC: October 15, 2025 at 8:30 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this proposed administrative regulation shall be held on December 23, 2025, at 10:00 a.m. Eastern Time at the Office of Administrative Hearings, Conference Room B, 105 Sea Hero Road, Suite 2, Conference Room B, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this Office in writing at least five (5) working days 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 through 11:59 p.m. on December 31, 2025. 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:** Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5481, fax: (502) 573-8317, email: [steve.humphress@ky.gov](mailto:steve.humphress@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person:** Stephen B. Humphress

**Subject Headings:** Attorney General, Embalmers and Funeral Directors; Cremation and Embalming; Cemeteries and Burials

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation prescribes a funeral planning declaration form by which individuals may set forth their preferences regarding funeral arrangements and dispositions of their human remains after death.

**(b) The necessity of this administrative regulation:**

This regulation is necessary to provide the method by which the Office of Attorney General ("Attorney General"), may perform its statutory obligations.

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

KRS 15.180 directs the Attorney General to promulgate administrative regulations that will facilitate the performance of duties vested in the Attorney General and the Department of Law by law. KRS 367.150(4) requires the Department of Law to study the operation of all laws, rules, administrative regulations, orders, and state policies affecting consumers and to recommend administrative regulations in the consumers' interest. KRS 367.93101(3) require the Attorney General to prescribe a funeral planning declaration form.

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

This administrative regulation prescribes the funeral planning declaration form that individuals may use to set forth their preferences regarding funeral arrangements and dispositions of their human remains after death.

**(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:**

Through this amendment, the Attorney General is revising the regulation to remove unnecessary language from the regulation as duplicative and which is already incorporated by reference in the updated form. The amendment incorporates a new updated form. It is intended that the new form is easier for regulated funeral homes and consumers to use and complete. Amendment provides that person with power of attorney must comply with KRS 367.93103(4)(c) and (e) when signing a declaration on behalf of a Declarant.

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

The Attorney General needs to update its regulations and form to conform to KRS Chapter 13A drafting requirements. The Attorney General also needs to update its regulation and form to make both easier to understand by regulated entities and consumers.

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

As previously explained, KRS 15.180, 367.150(4), and 367.93101(3) authorize the administrative regulation amendments.

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

The regulation amendments will cause the funeral planning form to be more easily understood and completed by consumers and regulated entities.

**(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.**

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

This regulation amendment affects approximately four hundred and forty-five (445) funeral homes holding preneed funeral and burial contract seller licenses, the Attorney General, and unknown number of consumers who may plan for their own funerals and the disposition of their human remains.

**(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:**

Funeral homes and consumers will be required to use the new updated form incorporated into this regulation. The Attorney General will not be required to take any actions.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):**

Funeral homes and consumers will have no additional costs. They will be able to download the new form from the Attorney General's website at no cost. The Attorney General will have no additional costs by this amendment.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):**

The regulation amendments are intended to make the regulation more easily understood and the form more easily understood and completed by funeral homes and consumers. The Attorney General will benefit from having regulations compliant with KRS Chapter 13A and consistent form appearance.

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

**(a) Initially:**

There are no costs to implement this administrative regulation amendment.

**(b) On a continuing basis:**

There are no continuing costs to implement this administrative regulation amendment.

**(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:**

No additional costs are associated with implementing this administrative regulation amendment.

**(8) 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:**

There is no anticipated increase in fees or funding necessary to amend this administrative regulation.

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

This administrative regulation amendment does not directly or indirectly increase any fees.

**(10) TIERING: Is tiering applied?**

No. This administrative regulation applies equally to all funeral homes and consumers.

## 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 15.180, 367.150(4), and 367.93101(3).

**(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:**

This administrative regulation amendment was expressly authorized by 1960 Ky. Acts ch. 68, Art. II, sec. 1; 1972 Ky. Acts ch. 4, sec. 4; and 2016 Ky. Acts ch. 59, sec. 2.

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

The Office of Attorney General, Kentucky Office of Regulatory Relief ("Attorney General") is the promulgating agency. The regulation does not affect any other state agencies. (b) Estimate the following for each affected state unit, part, or division in (3) (a):

**(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):**

**1. Expenditures:**

**For the first year:**There are no expenditures to administer this administrative regulation amendment for the first year.

**For subsequent years:**There will be no expenditures to administer the administrative regulation amendment in subsequent years.

**2. Revenues:**

**For the first year:**The administrative regulation amendment will generate no revenues to the Attorney General in the first year.

**For subsequent years:**The administrative regulation amendment will generate no revenues to the Attorney General in subsequent years.

**3. Cost Savings:**

**For the first year:**In the first year, the Attorney General will have no cost savings.

**For subsequent years:**In subsequent years, the Attorney General will have no cost savings.

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

The administrative regulation amendment will not affect any local entities.

**(b) Estimate the following for each affected local entity identified in (4)(a):**

**1. Expenditures:**

**For the first year:**This administrative regulation amendment will not cause expenditures by local entities for the first year.

**For subsequent years:**This administrative regulation amendment will not cause expenditures by local entities in subsequent years.

**2. Revenues:**

**For the first year:Local entities will receive no revenues from this administrative regulation amendment for the first year.**

**For subsequent years:Local entities will receive no revenues from this administrative regulation amendment in subsequent years.**

**3. Cost Savings:**

**For the first year:Local entities will receive no cost savings from this administrative regulation amendment for the first year.**

**For subsequent years:Local entities will receive no cost savings from this administrative regulation amendment in subsequent years.**

**(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):**

licensed funeral homes and consumers will be affected by this administrative regulation amendment.

**(b) Estimate the following for each regulated entity identified in (5)(a):**

**1. Expenditures:**

**For the first year:This administrative regulation amendment will not cause funeral homes and consumers to have any additional expenditures for the first year.**

**For subsequent years:This administrative regulation amendment will not cause funeral homes and consumers to have any additional expenditures for the first year.**

**2. Revenues:**

**For the first year:Funeral homes and consumers will not receive any revenues from this administrative regulation amendment for the first year.**

**For subsequent years:Funeral homes and consumers will not receive any revenues from this administrative regulation amendment for the first year.**

**3. Cost Savings:**

**For the first year:Funeral homes and consumers will receive no cost savings in the first year.**

**For subsequent years:Funeral homes and consumers will have no cost savings in subsequent years.**

**(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)**

**(a) Fiscal impact of this administrative regulation:**

This administrative regulation amendment will have no fiscal impact. The regulation amendment updates a current form used by funeral homes and consumers. The form is free to download. The Attorney General receives no fees. For these reasons, the regulation amendments are not expected to have any significant fiscal impact.

**(b) Methodology and resources used to reach this conclusion:**

The Attorney General used a quantitative methodology analysis based on history of administrative agencies which license or register businesses in a specific subject area and the resulting facts from this regulation. The Attorney General used staff resources in determining the fiscal impact.

**(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):**

**(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):**

There is not an expected "major economic impact" from this regulation amendment for the Attorney General, any local entities, or affected regulated entities.

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

The Attorney General used a quantitative methodology analysis based on history of administrative agencies which license or register businesses in a specific subject area and resulting facts from this regulation. The Attorney General used staff resources in reaching the conclusion that no overall negative or adverse major economic impact results from this administrative regulation.