

**49.340 Investigation of claim -- Examination of records and reports -- Hearing -- Expenses of hearings outside offices -- Order -- Appeal.**

- (1) A claim, when accepted for filing, shall be assigned by the executive director of the Office of Claims and Appeals to an investigator for investigation. All claims arising from the death of an individual as a direct result of a crime shall be considered together.
- (2) The investigator to whom such claim is assigned shall examine the papers filed in support of the claim and the validity of the claim. The investigation shall include but not be limited to an examination of police, court, and official records and reports concerning the crime.
- (3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the board may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon an examination shall be filed with the investigator setting out findings, including results of all tests made, diagnosis, prognosis, and other conclusions.
- (4) For purposes of KRS 49.270 to 49.490, there is no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under KRS 49.270 to 49.490 in which that condition is an element.
- (5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.
- (6) Upon completion of the investigator's report, the claim shall be assigned to a board member who may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of the claim within thirty (30) days of the assignment of the claim. If the board member is unable to decide the claim upon the basis of the documents and the report, a hearing shall be ordered.
- (7) The hearing shall be conducted in accordance with KRS Chapter 13B and may be held at any location within the Commonwealth, with a view to securing opportunity for crime victims to appear before it with as little inconvenience and expense as practicable. When any member of the board is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the executive director of the Office of Claims and Appeals of an itemized statement of such expenses in accordance with Finance and Administration Cabinet administrative regulations.
- (8) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the board member to whom the claim was assigned shall issue a recommended order either granting an award pursuant to KRS 49.370 or deny the claim. The board shall review the recommended order and any

exceptions filed to it, and shall by majority vote issue a final order.

- (9) A final order of the board may be appealed by filing a petition for judicial review in the county where the claim accrued or in Franklin Circuit Court in accordance with KRS Chapter 13B.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 185, sec. 41, effective June 29, 2021. -- Repealed, reenacted, renumbered, and amended 2017 Ky. Acts ch. 74, sec. 34, effective June 29, 2017. -- Amended 1996 Ky. Acts ch. 318, sec. 329, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 409, sec. 5, effective July 13, 1990. -- Created 1976 Ky. Acts ch. 263, sec 8.

**Formerly codified as** KRS 346.080.