

1 AN ACT relating to death in the line of duty retirement benefits.

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

3 ➔Section 1. KRS 16.601 is amended to read as follows:

- 4 (1) If a member dies as a direct result of an act in line of duty as defined in KRS 16.505
5 and is survived by a spouse:
- 6 (a) The surviving spouse shall be the beneficiary, and this shall supersede the
7 designation of all previous beneficiaries of the deceased member's retirement
8 account except as provided in KRS 16.542(2)(e);
- 9 (b) ~~[1.—]The surviving spouse, provided he or she supersedes all previously~~
10 ~~designated beneficiaries, may elect to receive a lump-sum payment of ten~~
11 ~~thousand dollars (\$10,000) and a monthly payment equal to seventy-five~~
12 ~~percent (75%) of the member's monthly average pay beginning in the month~~
13 ~~following the member's death and continuing each month until [the surviving~~
14 ~~spouse remarries or until]the death of the [unmarried] surviving spouse[;~~
15 ~~2.—The monthly payment to the surviving spouse upon remarriage shall be~~
16 ~~twenty-five percent (25%) of the member's monthly average pay~~
17 ~~beginning in the month following remarriage and continuing each month~~
18 ~~until death]; and~~
- 19 (c) In addition, if the member is also survived by dependent children, monthly
20 payments shall be made for each dependent child equal to ten percent (10%)
21 of the deceased member's monthly average pay, except that the combined
22 maximum payment made to the:
- 23 1. Surviving spouse and dependent children under this subsection shall not
24 exceed one hundred percent (100%) of the deceased member's monthly
25 average pay; and
- 26 2. Dependent children, while the surviving spouse is living~~[or prior to the~~
27 ~~surviving spouse remarrying]~~, shall not exceed twenty-five percent

1 (25%) of the deceased member's monthly average pay. Payments made
2 to the dependent children under this subsection shall be divided equally
3 among all the dependent children.

4 (2) If a member dies as a result of an act in line of duty as defined in KRS 16.505 and is
5 not survived by a spouse but is survived by a dependent child or children, the
6 following benefits shall be paid to the dependent child or children:

7 (a) Fifty percent (50%) of the deceased member's monthly average pay, if the
8 deceased member has one (1) dependent child;

9 (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if
10 the deceased member has two (2) dependent children; or

11 (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if
12 the deceased member has three (3) or more dependent children.

13 Payments made to the dependent children under this subsection shall be divided
14 equally among all the dependent children.

15 (3) If a member dies as a direct result of an act in line of duty as defined in KRS 16.505
16 and the member has on file in the retirement office at the time of his or her death a
17 written designation of only one (1) beneficiary other than his or her spouse who has
18 not been superseded by the surviving spouse as provided by subsection (1)(a) of this
19 section, and who is a dependent receiving at least one-half (1/2) of his or her
20 support from the deceased member, the beneficiary may elect to receive a lump-sum
21 payment of ten thousand dollars (\$10,000).

22 (4) The payments provided by this section shall commence in the month following the
23 date of death of the member and shall be payable to the spouse, dependent children,
24 beneficiaries, or to a legally appointed guardian or as directed by the system.
25 Benefits to a dependent child under this section shall be payable notwithstanding an
26 election by a surviving spouse or beneficiary to withdraw the deceased member's
27 accumulated account balance as provided in KRS 61.625 or to elect benefits under

1 any other provisions of KRS 16.510 to 16.652.

2 (5) A surviving spouse or beneficiary eligible for benefits under subsection (1) or (3) of
3 this section who is also eligible for benefits under any other provisions of KRS
4 16.510 to 16.652 may elect benefits under this section or any other section of KRS
5 16.510 to 16.652 but cannot elect to receive both.

6 (6) (a) A surviving spouse or beneficiary applying for benefits under subsection (1)
7 or (3) of this section who is also eligible for benefits under KRS 16.578 may
8 elect to receive benefits under KRS 16.578(2)(a) or (b) while the application
9 for benefits under subsection (1) or (3) of this section is pending.

10 (b) If a final determination results in a finding of eligibility for benefits under
11 subsection (1) or (3) of this section, the system shall recalculate the benefits
12 due the surviving spouse or beneficiary in accordance with this subsection.

13 (c) If the surviving spouse or beneficiary has been paid less than the amount of
14 benefits to which the surviving spouse or beneficiary was entitled to receive
15 under this section, the system shall pay the additional funds due to the
16 surviving spouse or beneficiary.

17 (d) If the surviving spouse or beneficiary has been paid more than the amount of
18 benefits to which the surviving spouse or beneficiary was entitled to receive
19 under this section, the system shall deduct the amount overpaid to the
20 surviving spouse or beneficiary from the ten thousand dollars (\$10,000) lump-
21 sum payment and from the monthly retirement allowance payments until the
22 amount owed to the systems has been recovered.

23 ➔Section 2. KRS 61.621 is amended to read as follows:

24 (1) Notwithstanding any provision of any statutes to the contrary, effective June 1,
25 2000, any employee participating in one (1) of the state-administered retirement
26 systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be
27 eligible for minimum benefits equal to the benefits payable under this section or

1 KRS 61.702 if the employee dies or becomes totally and permanently disabled to
2 engage in any occupation for remuneration or profit as a result of a duty-related
3 injury.

4 (2) (a) For purposes of this section, "duty-related injury" means:

5 1. a. A single traumatic event that occurs while the employee is
6 performing the duties of his position; or

7 b. A single act of violence committed against the employee that is
8 found to be related to his job duties, whether or not it occurs at his
9 job site; and

10 2. The event or act of violence produces a harmful change in the human
11 organism evidenced by objective medical findings.

12 (b) "Duty-related injury" does not include the effects of the natural aging process,
13 a communicable disease unless the risk of contracting the disease is increased
14 by nature of the employment, or a psychological, psychiatric, or stress-related
15 change in the human organism unless it is the direct result of a physical injury.

16 (3) ~~{(a)—}~~If the employee dies as a result of a duty-related injury and is survived by a
17 spouse;~~{,}~~

18 (a) The surviving spouse shall be the beneficiary, and this shall supersede the
19 designation of all previous beneficiaries of the deceased employee's retirement
20 account, except as provided in KRS 61.542(2)(e);~~{,}~~

21 (b) The surviving spouse, provided he or she supersedes all previously designated
22 beneficiaries, may elect to receive the benefits payable under KRS 61.640 or
23 other applicable death benefit statutes, or may elect to receive a lump-sum
24 payment of ten thousand dollars (\$10,000) and a monthly payment equal to
25 seventy-five percent (75%) of the member's monthly average pay beginning in
26 the month following the member's death and continuing each month until ~~the~~
27 ~~surviving spouse remarries or until~~ the death of the ~~unmarried~~ surviving

1 spouse; and[-.]

2 (c) ~~[The monthly payment to the surviving spouse upon remarriage shall be~~
3 ~~twenty five percent (25%) of the member's monthly average pay beginning in~~
4 ~~the month following remarriage and continuing each month until death.~~

5 ~~(d)~~—]In addition, if the member is also survived by dependent children, monthly
6 payments shall be made for each dependent child equal to ten percent (10%)
7 of the deceased member's monthly average pay, except that the combined
8 maximum payment made to the:

9 1. Surviving spouse and dependent children under this subsection shall not
10 exceed one hundred percent (100%) of the deceased member's monthly
11 average pay; and

12 2. Dependent children, while the surviving spouse is living~~[or prior to the~~
13 ~~surviving spouse remarrying]~~, shall not exceed twenty-five percent
14 (25%) of the deceased member's monthly average pay. Payments made
15 to the dependent children under this subsection shall be divided equally
16 among all the dependent children.

17 (4) If the employee dies as a result of a duty-related injury and is not survived by a
18 spouse but is survived by a dependent child or children, the following benefits shall
19 be paid to the dependent child or children:

20 (a) Fifty percent (50%) of the deceased member's monthly average pay, if the
21 deceased member has one (1) dependent child;

22 (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if
23 the deceased member has two (2) dependent children; or

24 (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if
25 the deceased member has three (3) or more dependent children.

26 Payments made to the dependent children under this subsection shall be divided
27 equally among all the dependent children.

- 1 (5) If the employee is determined to be disabled as provided in KRS 61.600, or other
2 applicable disability statutes in any other state-administered retirement system, as
3 the result of a duty-related injury, the employee may elect to receive benefits
4 determined under the provisions of KRS 61.605, or other applicable disability
5 statutes in any other state-administered retirement system, except that the monthly
6 retirement allowance shall not be less than twenty-five percent (25%) of the
7 employee's monthly final rate of pay. For purposes of determining disability, the
8 service requirement in KRS 61.600(1)(a), or other applicable statutes in any other
9 state-administered retirement system, shall be waived.
- 10 (6) In the period of time following a member's disability during which dependent
11 children survive, a monthly payment shall be made for each dependent child who is
12 alive which shall be equal to ten percent (10%) of the disabled member's monthly
13 final rate of pay; however, total maximum dependent children's benefits shall not
14 exceed forty percent (40%) of the disabled member's monthly final rate of pay at the
15 time any particular payment is due. The payment shall commence in the month
16 following the date of disability of the member and shall be payable to the
17 beneficiaries, or to a legally appointed guardian, or as directed by the system.
- 18 (7) Benefits for death as a result of a duty-related injury to a dependent child shall be
19 payable under this section notwithstanding an election by a surviving spouse or
20 beneficiary to withdraw the deceased member's accumulated account balance as
21 provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to
22 61.705 or other applicable death benefit statutes in any other state-administered
23 retirement system.
- 24 (8) (a) A spouse applying for benefits under this section who is also eligible for
25 benefits under KRS 61.640 may elect to receive benefits under KRS
26 61.640(2)(a) or (b) while the application for benefits under this section is
27 pending.

- 1 (b) If a final determination results in a finding of eligibility for benefits under this
2 section, the system shall recalculate the benefits due the spouse in accordance
3 with this subsection.
- 4 (c) If the spouse has been paid less than the amount of benefits to which the
5 spouse was entitled to receive under this section, the system shall pay the
6 additional funds due to the spouse.
- 7 (d) If the spouse has been paid more than the benefit the spouse was eligible to
8 receive under this section, then the system shall deduct the amount owed by
9 the spouse from the ten thousand dollars (\$10,000) lump-sum payment and
10 from the monthly retirement allowance payments until the amount owed to the
11 systems has been recovered.
- 12 (9) For purposes of this section, "dependent child" has the same meaning as in KRS
13 16.505.
- 14 (10) This section shall be known as "The Fred Capps Memorial Act."
- 15 ➔Section 3. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to
16 78.852, 161.220 to 161.716, or any provision of Sections 1 and 2 of this Act to the
17 contrary, the state-administered retirement systems shall make the following benefit
18 adjustments for any surviving spouse of a member who was determined to have died as a
19 direct result of an act in line of duty as defined in KRS 16.505(19) or whose death
20 resulted from a duty-related injury as defined in Section 2 of this Act:
- 21 (1) In the month following the effective date of this Act, the surviving spouse, if the
22 spouse is receiving a monthly benefit due to a member's death and has remarried
23 following the member's death, shall have his or her monthly benefit increased to the
24 amount specified by Section 1 or 2 of this Act, as applicable, except that the amount
25 shall not be increased above a level that exceeds 100 percent of the member's
26 monthly average pay when combined with any dependent child payments from the
27 systems; and

1 (2) The provisions of Sections 1 and 2 of this Act shall not reduce any benefits payable
2 to any surviving spouse of a member who died prior to the effective date of this Act
3 and whose death was determined by the systems to be the direct result of an act in
4 line of duty as defined in KRS 16.505(19) or resulted from a duty-related injury as
5 defined in Section 2 of this Act.