

1 AN ACT relating to death benefits for first responders, making an appropriation
2 therefor, and declaring an emergency.

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

4 ➔Section 1. KRS 61.315 is amended to read as follows:

5 (1) As used in this section:

6 (a) "Police officer" means every paid police officer, sheriff, or deputy sheriff,
7 corrections employee with the power of a peace officer pursuant to KRS
8 196.037, any metropolitan or urban-county correctional officer with the power
9 of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any
10 auxiliary police officer appointed pursuant to KRS 95.445, any police officer
11 of a public institution of postsecondary education appointed pursuant to KRS
12 164.950, any school resource officer as defined in KRS 158.441, or any
13 citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088,
14 elected to office, or employed by any county, airport board created pursuant to
15 KRS Chapter 183, city, local board of education, or by the state;

16 (b) "Firefighter" means every paid firefighter or volunteer firefighter who is
17 employed by or volunteers his or her services to the state, airport board
18 created pursuant to KRS Chapter 183, any county, city, fire district, or any
19 other organized fire department recognized, pursuant to KRS 95A.262, as a
20 fire department operated and maintained on a nonprofit basis in the interest of
21 the health and safety of the inhabitants of the Commonwealth and shall
22 include qualified civilian firefighters employed at Kentucky-based military
23 installations; and

24 (c) "Emergency medical services personnel" means any paid or volunteer
25 emergency medical services personnel who is certified or licensed pursuant to
26 KRS Chapter 311A and who is employed directly by, or volunteering directly
27 for, any:

- 1 1. County;
- 2 2. City;
- 3 3. Fire protection district created under KRS 75.010 to 75.260; or
- 4 4. Emergency ambulance service district created under KRS 108.080 to
- 5 108.180;
- 6 to provide emergency medical services.

7 (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with
8 the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-
9 county correctional officer with the power of a peace officer pursuant to KRS
10 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant
11 to KRS 95.445, any police officer of a public institution of postsecondary education
12 appointed pursuant to KRS 164.950, any school resource officer as defined in KRS
13 158.441, or any citation or safety officer appointed pursuant to KRS 83A.087 and
14 83A.088, firefighter, or member of the Kentucky National Guard on state active
15 duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve
16 component on federal active duty under Title 10 or 32 of the United States Code
17 who names Kentucky as home of record for military purposes, whose death occurs
18 on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a
19 lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving
20 children, which sum shall be paid by the State Treasurer from the general fund of
21 the State Treasury. The spouse of any emergency medical services personnel whose
22 death occurs on or after November 1, 2015, as a direct result of an act in the line of
23 duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there
24 are no surviving children, which sum shall be paid by the State Treasurer from the
25 general fund of the State Treasury. If there are surviving children and a surviving
26 spouse, the payment shall be apportioned equally among the surviving children and
27 the spouse. If there is no surviving spouse, the payment shall be made to the

1 surviving children, eighteen (18) or more years of age. For surviving children less
2 than eighteen (18) years of age, the State Treasurer shall:

3 (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and

4 (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts
5 at appropriate interest rates for each surviving child until the child reaches the
6 age of eighteen (18) years.

7 If a child dies before reaching the age of eighteen (18) years, his or her account shall
8 be paid to his or her estate. If there are no surviving children, the payment shall be
9 made to any parents of the deceased.

10 (3) The Kentucky Fire Commission shall be authorized to promulgate administrative
11 regulations establishing criteria and procedures applicable to the administration of
12 this section as it pertains to both paid and volunteer firefighters, including but not
13 limited to defining when a firefighter has died in line of duty. Administrative
14 hearings promulgated by administrative regulation under authority of this
15 subsection shall be conducted in accordance with KRS Chapter 13B.

16 (4) The Justice and Public Safety Cabinet may promulgate administrative regulations
17 establishing criteria and procedures applicable to the administration of this section
18 as it pertains to police officers, any metropolitan or urban-county correctional
19 officers with the power of a peace officer pursuant to KRS 446.010, any school
20 resource officer as defined in KRS 158.441, or any jailers or deputy jailers,
21 including but not limited to defining when one has died in line of duty.
22 Administrative hearings promulgated by administrative regulation under authority
23 of this subsection shall be conducted in accordance with KRS Chapter 13B.

24 (5) The Department of Corrections shall promulgate administrative regulations
25 establishing the criteria and procedures applicable to the administration of this
26 section as it pertains to correctional employees, including but not limited to defining
27 which employees qualify for coverage and which circumstances constitute death in

1 the line of duty.

2 (6) The Kentucky Board of Emergency Medical Services shall promulgate
3 administrative regulations establishing the criteria and procedures applicable to the
4 administration of this section as it pertains to emergency medical services
5 personnel, including but not limited to which employees or volunteers qualify for
6 coverage and which circumstances constitute death in the line of duty.

7 (7) The Department of Military Affairs shall promulgate administrative regulations
8 establishing the criteria and procedures applicable to the administration of this
9 section as it pertains to National Guard or Reserve component members, including
10 but not limited to defining which National Guard or Reserve component members
11 qualify for coverage and which circumstances constitute death in the line of duty.

12 (8) The estate of anyone whose spouse or surviving children would be eligible for
13 benefits under subsection (2) of this section, and the estate of any regular member
14 of the United States Armed Forces who names Kentucky as home of record for
15 military purposes whose death occurs as a direct result of an act in the line of duty,
16 shall be exempt from all probate fees, including but not limited to those established
17 by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or
18 imposed under KRS 24A.185, 64.012, and 172.180.

19 (9) The benefits payable under this section shall be in addition to any benefits now or
20 hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's,
21 emergency medical services personnel, or National Guard or Reserve retirement or
22 benefit fund established by the federal government or by any state, county, or any
23 municipality.

24 (10) Any funds appropriated for the purpose of paying the death benefits described in
25 subsection (2) of this section shall be allotted to a self-insuring account. These
26 funds shall not be used for the purpose of purchasing insurance.

27 (11) (a) For the purposes of this section, if a firefighter dies as a result of cancer, the

1 death shall be a direct result of an act in the line of duty if the firefighter:

- 2 1. Was a firefighter for at least five (5) consecutive years;
- 3 2. Developed one (1) or more of the cancers listed in paragraph (b) of this
4 subsection which caused the firefighter's death within ten (10) years of
5 separation from service as a firefighter;
- 6 3. Did not use tobacco products for a period of ten (10) years prior to the
7 diagnosis of cancer;
- 8 4. Was under the age of sixty-five (65) at the time of death;
- 9 5. Was not diagnosed with any cancer prior to employment as a firefighter;
- 10 and
- 11 6. Was exposed while in the course of firefighting to a known carcinogen
12 as defined by the International Agency for Research on Cancer or the
13 National Toxicology Program, and the carcinogen is reasonably
14 associated with one (1) or more of the cancers listed in paragraph (b) of
15 this subsection.

16 (b) This section shall apply to the following cancers:

- 17 1. Bladder cancer;
- 18 2. Brain cancer;
- 19 3. Colon cancer;
- 20 4. Non-Hodgkin's lymphoma;
- 21 5. Kidney cancer;
- 22 6. Liver cancer;
- 23 7. Lymphatic or haematopoietic cancer;
- 24 8. Prostate cancer;
- 25 9. Testicular cancer;
- 26 10. Skin cancer;
- 27 11. Cervical cancer; and

1 12. Breast cancer.

2 (c) 1. The provisions of this subsection creating an entitlement to the line of
3 duty death benefits shall apply exclusively to this section and shall not
4 be interpreted or otherwise construed to create either an express or
5 implied presumption of work-relatedness for any type of claim filed
6 pursuant to KRS Chapter 342.

7 2. This paragraph is intended to provide clarification regarding the sole and
8 exclusive application of this subsection to only the benefits available
9 under this section and shall not be used as a bar or other type of
10 limitation to impair or alter the rights and ability of a claimant to prove
11 work-relatedness under KRS Chapter 342 or other laws.

12 **(12) (a) As used in this subsection:**

13 **1. "COVID-19" means the novel coronavirus identified as SARS-CoV-2,**
14 **or a virus mutating from SARS-CoV-2, or any variant of SARS-CoV-**
15 **2, and medical conditions arising from the virus.**

16 **2. "First responder" means a police officer, firefighter, emergency**
17 **medical services personnel, member of the Kentucky National Guard**
18 **on state active duty pursuant to KRS 38.030, or a member of a state**
19 **National Guard or a Reserve component on federal active duty under**
20 **Title 10 or 32 of the United States Code who names Kentucky as home**
21 **of record for military purposes.**

22 **(b) For the purposes of this section, a first responder who dies as a result of**
23 **COVID-19 or complications therefrom, is presumed to have died as a direct**
24 **result of an act in the line of duty and the surviving spouse of the first**
25 **responder or the surviving children, if any, of the first responder shall be**
26 **entitled to the benefits set out in subsection (2) of this section, if the first**
27 **responder:**

- 1 1. Engaged in an act in the line of duty on or after March 6, 2020; and
2 2. Within fourteen (14) days of engaging in any such act in the line of
3 duty, was diagnosed with COVID-19.

4 (c) The presumption of this subsection may be rebutted if competent medical
5 evidence establishes that the death of a first responder was caused by
6 something other than COVID-19 or complications therefrom.

7 (d) 1. The provisions of this subsection creating an entitlement to the line of
8 duty death benefits shall apply exclusively to this section and shall not
9 be interpreted or otherwise construed to create either an express or
10 implied presumption of work-relatedness for any type of claim filed
11 pursuant to KRS Chapter 342.

12 2. This paragraph is intended to provide clarification regarding the sole
13 and exclusive application of this subsection to only the benefits
14 available under this section and shall not be used as a bar or other
15 type of limitation to impair or alter the rights and ability of a claimant
16 to prove work-relatedness under KRS Chapter 342 or other laws.

17 ➔Section 2. The presumption discussed in subsection (12) of Section 1 of this Act
18 applies retroactively to any claim for death benefits brought by a first responder on or
19 after March 6, 2020.

20 ➔Section 3. Whereas the Commonwealth of Kentucky continues to suffer effects
21 from the COVID-19 public health crisis, which is having immediate and significant
22 impacts on first responders, an emergency is declared to exist, and this Act takes effect
23 upon its passage and approval by the Governor or upon its otherwise becoming a law.