

1 AN ACT relating to death benefits.

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

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

4 (1) As used in this section:

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

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

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

27 1. County;

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

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

1 than eighteen (18) years of age, the State Treasurer shall:

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

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

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

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

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

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

- 1 (6) The Kentucky Board of Emergency Medical Services shall promulgate
2 administrative regulations establishing the criteria and procedures applicable to the
3 administration of this section as it pertains to emergency medical services
4 personnel, including but not limited to which employees or volunteers qualify for
5 coverage and which circumstances constitute death in the line of duty.
- 6 (7) The Department of Military Affairs shall promulgate administrative regulations
7 establishing the criteria and procedures applicable to the administration of this
8 section as it pertains to National Guard or Reserve component members, including
9 but not limited to defining which National Guard or Reserve component members
10 qualify for coverage and which circumstances constitute death in the line of duty.
- 11 (8) The estate of anyone whose spouse or surviving children would be eligible for
12 benefits under subsection (2) of this section, and the estate of any regular member
13 of the United States Armed Forces who names Kentucky as home of record for
14 military purposes whose death occurs as a direct result of an act in the line of duty,
15 shall be exempt from all probate fees, including but not limited to those established
16 by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or
17 imposed under KRS 24A.185, 64.012, and 172.180.
- 18 (9) The benefits payable under this section shall be in addition to any benefits now or
19 hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's,
20 emergency medical services personnel, or National Guard or Reserve retirement or
21 benefit fund established by the federal government or by any state, county, or any
22 municipality.
- 23 (10) Any funds appropriated for the purpose of paying the death benefits described in
24 subsection (2) of this section shall be allotted to a self-insuring account. These
25 funds shall not be used for the purpose of purchasing insurance.
- 26 (11) (a) For the purposes of this section, if a firefighter dies as a result of cancer, the
27 death shall be a direct result of an act in the line of duty if the firefighter:

- 1 1. Was a firefighter for at least five (5) consecutive years;
- 2 2. Developed one (1) or more of the cancers listed in paragraph (b) of this
- 3 subsection which caused the firefighter's death within ten (10) years of
- 4 separation from service as a firefighter;
- 5 3. Did not use tobacco products for a period of ten (10) years prior to the
- 6 diagnosis of cancer;
- 7 4. Was under the age of sixty-five (65) at the time of death;
- 8 5. Was not diagnosed with any cancer prior to employment as a firefighter;
- 9 and
- 10 6. Was exposed while in the course of firefighting to a known carcinogen
- 11 as defined by the International Agency for Research on Cancer or the
- 12 National Toxicology Program, and the carcinogen is reasonably
- 13 associated with one (1) or more of the cancers listed in paragraph (b) of
- 14 this subsection.
- 15 (b) This section shall apply to the following cancers:
- 16 1. Bladder cancer;
- 17 2. Brain cancer;
- 18 3. Colon cancer;
- 19 4. Non-Hodgkin's lymphoma;
- 20 5. Kidney cancer;
- 21 6. Liver cancer;
- 22 7. Lymphatic or hematopoietic~~[haematopoietic]~~ cancer;
- 23 8. Prostate cancer;
- 24 9. Testicular cancer;
- 25 10. Skin cancer;
- 26 11. Cervical cancer;~~[and]~~
- 27 12. Breast cancer;

1 13. Mesothelioma;

2 14. Esophageal cancer;

3 15. Lung cancer;

4 16. Rectal cancer;

5 17. Thyroid cancer;

6 18. Intestinal cancer;

7 19. Multiple myeloma cancer;

8 20. Buccal cancer; and

9 21. Pharyngeal cancer.

- 10 (c) 1. The provisions of this subsection creating an entitlement to the line of
11 duty death benefits shall apply exclusively to this section and shall not
12 be interpreted or otherwise construed to create either an express or
13 implied presumption of work-relatedness for any type of claim filed
14 pursuant to KRS Chapter 342.
- 15 2. This paragraph is intended to provide clarification regarding the sole and
16 exclusive application of this subsection to only the benefits available
17 under this section and shall not be used as a bar or other type of
18 limitation to impair or alter the rights and ability of a claimant to prove
19 work-relatedness under KRS Chapter 342 or other laws.