

1 AN ACT relating to paid leave for state employees.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 18A.005 TO 18A.200 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Child" means any person who has not reached his or her eighteenth*
7 *birthday;*

8 *(b) "Family medical leave" means employer-paid leave for:*

9 *1. The birth and care of a newborn child;*

10 *2. Placement of a child with the employee for:*

11 *a. Adoption;*

12 *b. Foster care placement; or*

13 *c. Kinship care placement; or*

14 *3. A serious health condition that makes the employee unable to perform*
15 *the functions of his or her job;*

16 *(c) "Fictive kin" has the same meaning as in KRS 199.011;*

17 *(d) "Foster care placement" means the placement of a child in a private home*
18 *to be cared for by a foster family under the supervision of the Cabinet for*
19 *Health and Family Services;*

20 *(e) "Kinship care placement" means a temporary placement of a child with a*
21 *blood relative or fictive kin by a court order; and*

22 *(f) "Parent" means the mother or father of a child by birth, adoption, foster*
23 *care placement, or kinship care placement.*

24 *(2) (a) A classified or unclassified employee employed in a full-time position shall*
25 *be entitled to a maximum of six (6) weeks of family medical leave.*

26 *(b) The employee shall be eligible for family medical leave upon completion of*
27 *thirty (30) days of service.*

- 1 (3) (a) The employee shall use the family medical leave provided under subsection
2 (2)(a) of this section within (1) year of the birth, placement of a child, or
3 serious health condition. Any leave not used within one (1) year of the birth,
4 placement of a child, or serious health condition shall lapse.
- 5 (b) If the employee is expected to have more than one (1) child during a
6 particular pregnancy, or if a placement of a child will result in having more
7 than one (1) child placed with the employee, the leave shall be taken
8 concurrently and treated as one (1) birth or placement.
- 9 (4) The employee shall be authorized to use his or her allotted family medical leave:
- 10 (a) As a continuous six (6) week block; or
11 (b) Intermittently throughout the year, so long as the leave is taken in one (1)
12 week blocks.
- 13 (5) Both parents shall be eligible to use family medical leave concurrently or
14 consecutively for the birth or placement of a child, as defined in subparagraphs 1.
15 and 2. of subsection (1)(b) of this section, if both parents are executive branch
16 employees employed in full-time positions.
- 17 (6) The employee shall request advance approval to use family medical leave. If the
18 employee cannot provide advance notice, he or she shall provide notice as soon as
19 practicable.
- 20 (7) The employee shall use family medical leave before using any other accrued
21 leave.
- 22 (8) Upon completion of the service requirement described in subsection (2)(b) of this
23 section, the employee may use family medical leave up to two (2) times within a
24 sixty (60) month period. Family medical leave shall renew every sixty (60) months
25 of service. Renewal shall void any remaining family medical leave balance so that
26 the maximum amount of leave available pursuant to this section shall not exceed
27 two (2) separate time blocks of six (6) weeks of paid family medical leave during a

1 sixty (60) month period.

2 (9) The employee may elect to use his or her family medical leave concurrently or
3 consecutively with leave time available under the Family and Medical Leave Act
4 of 1993, 29 U.S.C. sec. 2601 et seq.

5 (10) If an employee leaves a position eligible for family medical leave, any unused
6 balance remaining shall lapse. If that employee returns to a position eligible for
7 family medical leave, he or she shall complete the service requirement described
8 in subsection (2)(b) of this section.

9 (11) Upon separation from state service, an employee shall not be paid for any unused
10 family medical leave, and any unused balance shall not convert to any other type
11 of leave or benefit, including but not limited to compensation, retirement benefits,
12 or any other type of compensation or benefit otherwise available to state
13 employees.

14 (12) An eligible employee requesting family medical leave shall submit written
15 verification of the birth, placement of a child, or serious health condition to his or
16 her employer.

17 ➔Section 2. KRS 18A.025 is amended to read as follows:

18 (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015,
19 who shall be considered an employee of the state. The secretary shall be a graduate
20 of an accredited college or university and have at least five (5) years' experience in
21 personnel administration or in related fields, have known sympathies with the merit
22 principle in government, and shall be dedicated to the preservation of this principle.
23 Additional education may be substituted for the required experience and additional
24 experience may be substituted for the required education.

25 (2) The secretary of the Personnel Cabinet or the secretary's designee shall be
26 responsible for the coordination of the state's affirmative action plan established by
27 KRS 18A.138.

1 (3) There is established within the Personnel Cabinet the following offices,
2 departments, and divisions, each of which shall be headed by either a
3 commissioner, executive director, or division director appointed by the secretary,
4 subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050,
5 depending on the level of the appointment, except that the Kentucky Employees
6 Deferred Compensation Authority shall be headed by an executive director who
7 shall be appointed by the authority's board of directors:

8 (a) Office of the Secretary, which shall be responsible for communication with
9 state employees about personnel and other relevant issues and for the
10 administration and coordination of the following:

11 1. Office of Employee Relations, composed of the following programs:

12 a. Workers' Compensation Program pursuant to KRS 18A.375;

13 b. Sick Leave Sharing Program, pursuant to KRS 18A.197;

14 c. Annual Leave Sharing Program, pursuant to KRS 18A.203;

15 d. Health and Safety Program;

16 e. Employee Assistance Program;

17 f. Employee Incentive Programs, pursuant to KRS 18A.202;

18 g. Employee Mediation Program;~~and~~

19 h. Living Organ Donor Leave Program, pursuant to KRS 18A.194;

20 and

21 i. Family Medical Leave Program, pursuant to Section 1 of this

22 Act;

23 2. Office of Administrative Services, which shall be responsible for the
24 Personnel Cabinet's administrative functions, composed of the following
25 programs:

26 a. Division of Technology Services;

27 b. Division of Human Resources; and

- 1 c. Division of Financial Services;
- 2 3. Office of Legal Services, which shall provide legal services to the
- 3 Personnel Cabinet and to executive branch agencies and their
- 4 representatives upon request;
- 5 4. Office of Diversity, Equality, and Training, which shall coordinate and
- 6 implement diversity initiatives for state agencies, the affirmative action
- 7 plan established by KRS 18A.138, the state Equal Employment
- 8 Opportunity Program, and the Minority Management Trainee Program;
- 9 5. Governmental Services Center, which shall be responsible for employee
- 10 and managerial training and organizational development;
- 11 6. Kentucky Public Employees Deferred Compensation Authority, which
- 12 shall maintain a deferred compensation plan for state employees; and
- 13 7. Office of Public Affairs, which shall assist in all aspects of developing
- 14 and executing the strategic direction of the cabinet;
- 15 (b) Department of Human Resources Administration, which shall be composed of
- 16 the:
- 17 1. Division of Employee Management, which shall be responsible for
- 18 payroll, records, classification, and compensation. The division shall
- 19 also be responsible for implementing layoff plans mandated by KRS
- 20 18A.113 and shall monitor and assist state agencies in complying with
- 21 the provisions of the federal Fair Labor Standards Act. The division
- 22 shall:
- 23 a. Maintain the central personnel files mandated by KRS 18A.020
- 24 and process personnel documents and position actions;
- 25 b. Operate and maintain a uniform payroll system and certify
- 26 payrolls as required by KRS 18A.125;
- 27 c. Maintain plans of classification and compensation for state service

- 1 and review and evaluate the plans; and
- 2 d. Coordinate and implement the employee performance evaluation
- 3 systems throughout state government; and
- 4 2. Division of Career Opportunities, which shall be responsible for
- 5 employment counseling, applicant processing, employment register, and
- 6 staffing analysis functions. The division shall:
- 7 a. Operate a centralized applicant and employee counseling program;
- 8 b. Operate, coordinate, and construct the examination program for
- 9 state employment;
- 10 c. Prepare registers of candidate employment; and
- 11 d. Coordinate outreach programs, such as recruitment and the
- 12 Administrative Intern Program; and
- 13 (c) Department of Employee Insurance, which shall be responsible for the:
- 14 1. Health Insurance Program, pursuant to KRS 18A.225;
- 15 2. Flexible Benefit Plan, pursuant to KRS 18A.227;
- 16 3. Division of Insurance Administration, which shall be responsible for
- 17 enrollment and service functions;
- 18 4. Division of Financial and Data Services, which shall be responsible for
- 19 fiscal and data analysis functions; and
- 20 5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.
- 21 (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to
- 22 KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and
- 23 implementation of policy. The secretary may employ, pursuant to the provisions of
- 24 this chapter, personnel necessary to execute the functions and duties of the
- 25 department.
- 26 ➔Section 3. KRS 18A.110 is amended to read as follows:
- 27 (1) The secretary shall promulgate comprehensive administrative regulations for the

- 1 classified service governing:
- 2 (a) Applications and examinations;
- 3 (b) Certification and selection of eligibles;
- 4 (c) Classification and compensation plans;
- 5 (d) Incentive programs;
- 6 (e) Layoffs;
- 7 (f) Registers;
- 8 (g) Types of appointments;
- 9 (h) Attendance; hours of work; compensatory time; annual, court, military, sick,
- 10 voting, family medical leave, as provided in Section 1 of this Act, living
- 11 organ donor, and special leaves of absence, provided that the secretary shall
- 12 not promulgate administrative regulations that would reduce the rate at which
- 13 employees may accumulate leave time below the rate effective on December
- 14 10, 1985; and
- 15 (i) Employee evaluations.
- 16 (2) The secretary shall promulgate comprehensive administrative regulations for the
- 17 unclassified service.
- 18 (3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate
- 19 administrative regulations that would reduce an employee's salary; and
- 20 (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed
- 21 administrative regulation providing for an initial probationary period in excess
- 22 of six (6) months to the board for its approval.
- 23 (4) The secretary may promulgate administrative regulations to implement state
- 24 government's affirmative action plan under KRS 18A.138.
- 25 (5) (a) The administrative regulations shall comply with the provisions of this
- 26 chapter and KRS Chapter 13A, and shall have the force and effect of law after
- 27 compliance with the provisions of KRS Chapters 13A and 18A and the

- 1 procedures adopted thereunder;
- 2 (b) Administrative regulations promulgated by the secretary shall not expand or
- 3 restrict rights granted to, or duties imposed upon, employees and
- 4 administrative bodies by the provisions of this chapter; and
- 5 (c) No administrative body other than the Personnel Cabinet shall promulgate
- 6 administrative regulations governing the subject matters specified in this
- 7 section.
- 8 (6) Prior to filing an administrative regulation with the Legislative Research
- 9 Commission, the secretary shall submit the administrative regulation to the board
- 10 for review.
- 11 (a) The board shall review the administrative regulation proposed by the secretary
- 12 not less than twenty (20) days after its submission to it;
- 13 (b) Not less than five (5) days after its review, the board shall submit its
- 14 recommendations in writing to the secretary;
- 15 (c) The secretary shall review the recommendations of the board and may revise
- 16 the proposed administrative regulation if he or she deems it necessary; and
- 17 (d) After the secretary has completed the review provided for in this section, he or
- 18 she may file the proposed administrative regulation with the Legislative
- 19 Research Commission in accordance with~~[pursuant to the provisions of]~~ KRS
- 20 Chapter 13A.
- 21 (7) The administrative regulations shall provide:
- 22 (a) For the preparation, maintenance, and revision of a position classification plan
- 23 for all positions in the classified service, based upon similarity of duties
- 24 performed and responsibilities assumed, so that the same qualifications may
- 25 reasonably be required for, and the same schedule of pay may be equitably
- 26 applied to, all positions in the same class. The secretary shall allocate the
- 27 position of every employee in the classified service to one (1) of the classes in

1 the plan. The secretary shall reallocate existing positions, after consultation
2 with appointing authorities, when it is determined that they are incorrectly
3 allocated, and there has been no substantial change in duties from those in
4 effect when such positions were last classified. The occupant of a position
5 being reallocated shall continue to serve in the reallocated position with no
6 reduction in salary;

7 (b) For a pay plan for all employees in the classified service, after consultation
8 with appointing authorities and the state budget director. The plan shall take
9 into account such factors as:

- 10 1. The relative levels of duties and responsibilities of various classes of
11 positions;
- 12 2. Rates paid for comparable positions elsewhere taking into consideration
13 the effect of seniority on such rates; and
- 14 3. The state's financial resources.

15 Amendments to the pay plan shall be made in the same manner. Each
16 employee shall be paid at one (1) of the rates set forth in the pay plan for the
17 class of position in which he or she is employed, provided that the full amount
18 of the annual increment provided for by the provisions of KRS 18A.355, and
19 the full amount of an increment due to a promotion, salary adjustment,
20 reclassification, or reallocation, shall be added to an employee's base salary or
21 wages;

22 (c) For the advertisement and acceptance of applications for at least five (5) days
23 for those positions to be filled by classified appointment or promotion. The
24 secretary may continue to receive applications and review applicants on a
25 continuous basis long enough to ensure a sufficient number of applicants;

26 (d) For the rejection of candidates or eligibles who fail to comply with reasonable
27 requirements of the secretary in regard to such factors as age, physical

- 1 condition, training, and experience, or who have attempted any deception or
2 fraud in connection with an examination;
- 3 (e) Except as provided by this chapter, for the appointment of a person whose
4 score is included in the five (5) highest scores earned on the examination;
- 5 (f) For annual, sick, and special leaves of absence, with or without pay, or
6 reduced pay, after approval by the Governor as provided by KRS
7 18A.155(1)(d);
- 8 (g) For layoffs, in accordance with the provisions of KRS 18A.113, by reasons of
9 lack of work, abolishment of a position, a material change in duties or
10 organization, or a lack of funds;
- 11 (h) For the development and operation of programs to improve the work
12 effectiveness of employees in the state service, including training, whether in-
13 service or compensated educational leave, safety, health, welfare, counseling,
14 recreation, employee relations, and employee mobility without written
15 examination;
- 16 (i) For a uniform system of annual employee evaluation for classified employees,
17 with status, that shall be considered in determining eligibility for discretionary
18 salary advancements, promotions, and disciplinary actions. The administrative
19 regulations shall:
- 20 1. Require the secretary to determine the appropriate number of job
21 categories to be evaluated and a method for rating each category;
 - 22 2. Provide for periodic informal reviews during the evaluation period
23 which shall be documented on the evaluation form and pertinent
24 comments by either the employee or supervisor may be included;
 - 25 3. Establish a procedure for internal dispute resolution with respect to the
26 final evaluation rating;
 - 27 4. Permit a classified employee, with status, who receives either of the two

- 1 (2) lowest possible evaluation ratings to appeal to the Personnel Board
2 for review after exhausting the internal dispute resolution procedure.
3 The final evaluation shall not include supervisor comments on ratings
4 other than the lowest two (2) ratings;
- 5 5. Require that an employee who receives the highest possible rating shall
6 receive the equivalent of two (2) workdays, not to exceed sixteen (16)
7 hours, credited to his or her annual leave balance. An employee who
8 receives the second highest possible rating shall receive the equivalent
9 of one (1) workday, not to exceed eight (8) hours, credited to his or her
10 annual leave balance; and
- 11 6. Require that an employee who receives the lowest possible evaluation
12 rating shall either be demoted to a position commensurate with the
13 employee's skills and abilities or be terminated; and
- 14 (j) For other administrative regulations not inconsistent with this chapter and
15 KRS Chapter 13A, as may be proper and necessary for its enforcement.
- 16 (8) For any individual hired or elected to office before January 1, 2015, and paid
17 through the Kentucky Human Resources Information System, the Personnel
18 Cabinet shall not require payroll payments to be made by direct deposit or require
19 the individual to use a web-based program to access his or her salary statement.
- 20 (9) To the extent that KRS 16.010 to 16.199, 16.080, and 16.584 and administrative
21 regulations promulgated by the commissioner of the Department of Kentucky State
22 Police under authority granted in KRS Chapter 16 conflict with this section or any
23 administrative regulation promulgated by the secretary pursuant to authority
24 granted in this section, the provisions of KRS Chapter 16 shall prevail.
- 25 ➔Section 4. Incumbent employees in full-time positions who have at least 30
26 days of service as of the effective date of this Act shall be immediately eligible for family
27 medical leave.

- 1 ➔Section 5. The judicial and legislative branches of state government may adopt
- 2 a family medical leave policy for their employees pursuant to Section 1 of this Act.