

1 AN ACT relating to death in the line of duty benefits and declaring an emergency.

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 ~~[the death of]~~ a member ***dies*** ~~[in service occurs on or after August 1, 1992,]~~ as a
5 direct result of an ~~[]~~act in line of duty~~[]~~ ***as defined in KRS 16.505 and is survived***
6 ***by a spouse, the surviving spouse:***~~[and the member has on file in the retirement~~
7 ~~office at the time of his or her death a written designation of only one (1)~~
8 ~~beneficiary, who is his or her spouse, the beneficiary.]~~

9 ***(a) Shall be the beneficiary and shall supersede the designation of all previous***
10 ***beneficiaries of the deceased member's retirement account, except as***
11 ***provided by subsection (2)(e) of Section 2 of this Act; and***

12 ***(b)*** May elect to receive a lump-sum payment of ten thousand dollars (\$10,000)
13 and a monthly payment equal to ***fifty percent (50%)***~~[twenty five percent~~
14 ~~(25%)]~~ of the member's monthly final rate of pay beginning in the month
15 following the member's death and continuing each month until death,
16 ***provided that he or she supersedes all previously designated beneficiaries.***

17 (2) If ~~[the death of]~~ a member:

18 ***(a) Dies***~~[in service occurs on or after July 1, 1968,]~~ as a direct result of an ~~[]~~act
19 in line of duty~~[]~~ ***as defined in KRS 16.505;*** and~~[the member]~~

20 ***(b)*** Has on file in the retirement office at the time of his or her death a written
21 designation of only one (1) beneficiary ***who:***

22 ***1. Is not the member's*** ~~[other than his or her]~~spouse;~~[, who]~~

23 ***2. Has not been superseded by the member's surviving spouse as***
24 ***provided by subsection (1)(a) of this section; and***

25 ***3.*** Is a dependent receiving at least one-half (1/2) of his or her support from
26 the deceased member;

27 ***then***~~[,]~~ the beneficiary may elect to receive a lump-sum payment of ten

1 thousand dollars (\$10,000).

2 (3) In the period of time following a member's death during which dependent children
3 survive, monthly payments shall be made for each dependent child who is alive,
4 equal to ten percent (10%) of the deceased member's monthly final rate of pay;
5 however, total maximum dependent children's benefits shall not be greater than
6 forty percent (40%) of the deceased member's monthly final rate of pay at the time
7 any particular payment is due. The payments shall commence in the month
8 following the date of death of the member and shall be payable to the beneficiaries,
9 or to a legally appointed guardian or as directed by the system. Benefits shall be
10 payable under this subsection notwithstanding an election by a surviving spouse or
11 beneficiary to withdraw the deceased member's accumulated account balance as
12 provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to
13 16.652.

14 (4) A surviving spouse or beneficiary eligible for benefits under subsection (1) or (2) of
15 this section who is also eligible for benefits under any other provisions of KRS
16 16.510 to 16.652 may elect benefits under this section or any other section of KRS
17 16.510 to 16.652 but cannot elect to receive both.

18 (5) (a) A surviving spouse or beneficiary applying for benefits under subsection (1)
19 or (2) of this section who is also eligible for benefits under KRS 16.578 may
20 elect to receive benefits under KRS 16.578(2)(a) or (b) while the application
21 for benefits under subsection (1) or (2) of this section is pending.

22 (b) If a final determination results in a finding of eligibility for benefits under
23 subsection (1) or (2) of this section, the system shall recalculate the benefits
24 due the surviving spouse or beneficiary in accordance with this subsection.

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

1 surviving spouse or beneficiary.

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

8 ➔Section 2. KRS 61.542 (Effective June 29, 2017) is amended to read as follows:

9 (1) Prior to the first day of the month in which the member receives his or her first
10 retirement allowance and prior to the member filing a notification of retirement or a
11 request for refund:

12 (a) Each member may designate on the form prescribed by the board a principal
13 beneficiary and contingent beneficiary for his or her account. The principal
14 beneficiary or contingent beneficiary designated by the member shall be:

- 15 1. One (1) or more persons; or
- 16 2. The member's estate; or
- 17 3. A trust;

18 (b) If multiple persons are designated as provided by paragraph (a)1. of this
19 subsection, the member shall indicate the percentage of total benefits each
20 person is to receive.

21 1. If percentages are not indicated, payments will be disbursed equally to
22 the named beneficiaries.

23 2. If the percentages indicated do not total one hundred percent (100%),
24 each beneficiary shall receive an increased or decreased percentage
25 which is proportional to the percentage allotted him or her by the
26 member.

27 3. If any of the multiple beneficiaries die prior to the member's death, the

1 remaining beneficiaries shall be entitled to the deceased beneficiary's
2 percentage of the total benefits, and each shall receive a percentage of
3 the deceased's share which is equal to the percentage allotted them by
4 the member;

5 (c) The principal and contingent beneficiary designation established by the
6 member pursuant to paragraph (a) of this subsection shall remain in full force
7 and effect until changed by the member, except:

8 1. A final divorce decree terminates an ex-spouse's status as beneficiary,
9 unless the member has on file in the retirement office a beneficiary
10 designation that redesignates the ex-spouse as beneficiary subsequent to
11 the issuance of the divorce decree;

12 2. If a beneficiary or beneficiaries are convicted of any crime which
13 prohibits that person or persons from receiving the benefits under KRS
14 381.280, the beneficiary or beneficiaries shall not be eligible for any of
15 the benefits and the remaining beneficiary or beneficiaries or, if none,
16 the member's estate, shall become the beneficiary; and

17 3. When a notification of retirement has been filed at the retirement office,
18 the designation of beneficiary on the notification of retirement, which
19 shall be one (1) person, his estate, or a trust, shall supersede the
20 designation of all previous beneficiaries, unless the notification of
21 retirement is withdrawn, invalid, or voided. If the notification of
22 retirement is withdrawn, invalid, or voided, the prior beneficiary
23 designation on file with the system shall remain in full force and effect
24 until changed by the member; and

25 (d) Except as provided by paragraph (c)3. of this subsection, if the member fails
26 to designate a beneficiary for his or her account or if the beneficiary
27 designation is determined to be void by the system, the member's estate shall

1 become the beneficiary.

2 (2) If the member dies prior to the first day of the month in which the member would
3 have received his or her first retirement allowance and prior to filing a notification
4 of retirement or a request for refund, any retirement benefits shall be payable to the
5 principal beneficiary, except that:

6 (a) If the death of the principal beneficiary or beneficiaries precedes the death of
7 the member, or if the principal beneficiary is terminated by a divorce decree,
8 the contingent beneficiary or beneficiaries become the principal beneficiary or
9 beneficiaries;

10 (b) If the principal beneficiary is one (1) person and is the member's spouse and
11 they are divorced on the date of the member's death, the contingent beneficiary
12 or beneficiaries become the principal beneficiary or beneficiaries;

13 (c) If the member is survived by his principal beneficiary or beneficiaries who
14 subsequently die prior to having on file at the retirement office the necessary
15 forms prescribed under authority of KRS 61.590, the contingent beneficiary
16 shall become the principal beneficiary or beneficiaries; ~~and~~

17 (d) If the deaths of all the principal beneficiaries and all of the contingent
18 beneficiaries precede the death of the member, the estate of the member
19 becomes the beneficiary; and

20 *(e) If the member dies as a direct result of an act in line of duty as defined by*
21 *KRS 16.505 or dies as a result of a duty-related injury as described by KRS*
22 *61.621, the surviving spouse shall supersede all previously designated*
23 *principal or contingent beneficiaries, unless the deceased member filed a*
24 *valid beneficiary designation form with the retirement office after the date*
25 *of marriage to the surviving spouse.*

26 (3) Prior to the first day of the month in which the member would have received his or
27 her first retirement allowance, a monthly benefit payable for life shall not be offered

- 1 if the beneficiary designated under subsection (1) of this section is more than one
2 (1) person, the member's estate, or a trust.
- 3 (4) When a notification of retirement has been filed at the retirement office:
- 4 (a) The designation of beneficiary on the notification of retirement shall
5 supersede the designation of all previous beneficiaries;
- 6 (b) The beneficiary designated by the member on the member's notification of
7 retirement shall be one (1) person, the member's estate, or a trust; and
- 8 (c) If the death of the beneficiary named on the notification of retirement precedes
9 the first day of the month in which the member receives his or her first
10 retirement allowance, the member may designate another beneficiary on the
11 member's notification of retirement.
- 12 (5) On or after the first day of the month in which the member receives his or her first
13 retirement allowance, the member shall not have the right to change his beneficiary,
14 except that:
- 15 (a) The estate of the retired member becomes the beneficiary if the date of death
16 of the beneficiary precedes or coincides with the date of death of the retired
17 member;
- 18 (b) The estate of the retired member becomes the beneficiary if the retired
19 member had designated a person as beneficiary who was the spouse or who
20 later married the member and they were divorced on the date of the retired
21 member's death. An ex-spouse who was the named beneficiary on the
22 member's notification of retirement shall be reinstated as the member's
23 beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and
24 (8)(b) if they are remarried to each other as of the date of the retired member's
25 death; and
- 26 (c) The estate of the member shall not receive monthly payments if the member
27 selected one (1) of the payment options provided by KRS 61.635(2), (3), (4),

1 and (8)(b).

2 (6) Following cessation of membership as provided by KRS 61.535, no beneficiary
3 designation in one (1) account shall be effective for any new retirement account
4 established pursuant to KRS 61.637 or 61.680. If the member fails to designate a
5 beneficiary for his or her new retirement account or if the beneficiary designation is
6 determined to be void by the system, the member's estate shall become the
7 beneficiary.

8 ➔Section 3. KRS 61.621 is amended to read as follows:

9 (1) Notwithstanding any provision of any statutes to the contrary, effective June 1,
10 2000, any employee participating in one (1) of the state-administered retirement
11 systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be
12 eligible for minimum benefits equal to the benefits payable under this section or
13 KRS 61.702 if the employee dies or becomes totally and permanently disabled to
14 engage in any occupation for remuneration or profit as a result of a duty-related
15 injury.

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

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

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

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

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

- 1 (3) (a) If the employee dies as a result of a duty-related injury and is survived by a
2 spouse, the surviving spouse shall be the beneficiary~~[,]~~ and~~[-this]~~ shall
3 supersede the designation of all previous beneficiaries of the deceased
4 employee's retirement account, **except as provided by subsection (2)(e) of**
5 **Section 2 of this Act.**
- 6 (b) The surviving spouse may elect to receive the benefits payable under KRS
7 61.640 or other applicable death benefit statutes, or may elect to receive a
8 lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment
9 equal to **fifty percent (50%)**~~[twenty five percent (25%)]~~ of the member's
10 monthly final rate of pay beginning in the month following the member's
11 death and continuing each month until death, **provided that he or she**
12 **supersedes all previously designated beneficiaries.**
- 13 (4) If the employee is determined to be disabled as provided in KRS 61.600, or other
14 applicable disability statutes in any other state-administered retirement system, as
15 the result of a duty-related injury, the employee may elect to receive benefits
16 determined under the provisions of KRS 61.605, or other applicable disability
17 statutes in any other state-administered retirement system, except that the monthly
18 retirement allowance shall not be less than twenty-five percent (25%) of the
19 employee's monthly final rate of pay. For purposes of determining disability, the
20 service requirement in KRS 61.600(1)(a), or other applicable statutes in any other
21 state-administered retirement system, shall be waived.
- 22 (5) In the period of time following a member's death or disability during which
23 dependent children survive, a monthly payment shall be made for each dependent
24 child who is alive which shall be equal to ten percent (10%) of the deceased or
25 disabled member's monthly final rate of pay; however, total maximum dependent
26 children's benefits shall not exceed forty percent (40%) of the deceased or disabled
27 member's monthly final rate of pay at the time any particular payment is due. The

1 payment shall commence in the month following the date of death or disability of
2 the member and shall be payable to the beneficiaries, or to a legally appointed
3 guardian, or as directed by the system. Benefits for death as a result of a duty-
4 related injury shall be payable under this subsection notwithstanding an election by
5 a surviving spouse or beneficiary to withdraw the deceased member's accumulated
6 account balance as provided in KRS 61.625 or benefits under any other provisions
7 of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other
8 state-administered retirement system.

9 (6) (a) A spouse applying for benefits under this section who is also eligible for
10 benefits under KRS 61.640 may elect to receive benefits under KRS
11 61.640(2)(a) or (b) while the application for benefits under this section is
12 pending.

13 (b) If a final determination results in a finding of eligibility for benefits under this
14 section, the system shall recalculate the benefits due the spouse in accordance
15 with this subsection.

16 (c) If the spouse has been paid less than the amount of benefits to which the
17 spouse was entitled to receive under this section, the system shall pay the
18 additional funds due to the spouse.

19 (d) If the spouse has been paid more than the benefit the spouse was eligible to
20 receive under this section, then the system shall deduct the amount owed by
21 the spouse from the ten thousand dollars (\$10,000) lump-sum payment and
22 from the monthly retirement allowance payments until the amount owed to the
23 systems has been recovered.

24 (7) This section shall be known as "The Fred Capps Memorial Act."

25 ➔Section 4. (1) Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510
26 to 78.852, or 161.220 to 161.716 or any provision of Sections 1 to 3 of this Act to the
27 contrary, Kentucky Retirement Systems shall provide the following benefit adjustments

1 to the surviving spouses of those members who died prior to the effective date of this Act
2 and whose death was determined by the systems to be a direct result of an act in the line
3 of duty as defined in KRS 16.505 or whose death resulted from a duty-related injury as
4 defined in Section 3 of this Act:

5 (a) In the month following the effective date of this Act, the surviving spouse, if
6 the spouse is receiving a monthly benefit due to a member's death, shall have his or her
7 monthly benefit increased to the amount specified by Section 1 or 3 of this Act, as
8 applicable;

9 (b) In the month following the effective date of this Act, a surviving spouse who
10 was married to the deceased member at the time of death, but who was ineligible for
11 monthly benefits payable to the surviving spouse under KRS 16.601 as codified prior to
12 the effective date of this Act, shall receive the monthly benefit payable to the surviving
13 spouse in Section 1 of this Act, provided the member's death occurred on or after January
14 1, 2017.

15 (2) Subsection (1) of this section shall only be construed to provide benefit
16 adjustments to surviving spouses of members who died prior to the effective date of this
17 Act and only in situations in which the member's death was determined by the systems to
18 be the direct result of an act in the line of duty as defined in KRS 16.505 or resulted from
19 a duty-related injury as defined in Section 3 of this Act.

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

25 ➔Section 6. Whereas protecting and honoring the families of public safety
26 officers and employees who have given their lives in service to the Commonwealth is of
27 utmost importance to all Kentuckians, an emergency is declared to exist, and this Act

- 1 takes effect upon its passage and approval by the Governor or upon its otherwise
- 2 becoming a law.