

1 AN ACT relating to death in the line of duty 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 61.542(2)(e);
- 9 (b) The surviving spouse, provided he or she supersedes all previously designated  
10 beneficiaries, may elect to receive a lump-sum payment of ten thousand  
11 dollars (\$10,000) and a monthly payment equal to seventy-five percent (75%)  
12 of the member's monthly average pay beginning in the month following the  
13 member's death and continuing each month until the death of the surviving  
14 spouse; and
- 15 (c) In addition, if the member is also survived by dependent children, monthly  
16 payments shall be made for each dependent child equal to ten percent (10%)  
17 of the deceased member's monthly average pay, except that the combined  
18 maximum payment made to the:
- 19 1. Surviving spouse and dependent children under this subsection shall not  
20 exceed one hundred percent (100%) of the deceased member's monthly  
21 average pay; and
- 22 2. Dependent children, while the surviving spouse is living, shall not  
23 exceed twenty-five percent (25%) of the deceased member's monthly  
24 average pay. Payments made to the dependent children under this  
25 subsection shall be divided equally among all the dependent children.
- 26 (2) If a member dies as a result of an act in line of duty as defined in KRS 16.505 and  
27 is not survived by a spouse but is survived by a dependent child or children, the

1 following benefits shall be paid to the dependent child or children:

- 2 (a) Fifty percent (50%) of the deceased member's monthly average pay, if the  
3 deceased member has one (1) dependent child;
- 4 (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if  
5 the deceased member has two (2) dependent children; or
- 6 (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if  
7 the deceased member has three (3) or more dependent children.

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

10 (3) If a member dies as a direct result of an act in line of duty as defined in KRS 16.505  
11 and the member has on file in the retirement office at the time of his or her death a  
12 written designation of only one (1) beneficiary other than his or her spouse who has  
13 not been superseded by the surviving spouse as provided by subsection (1)(a) of  
14 this section~~, and who is a dependent receiving at least one half (1/2) of his or her~~  
15 ~~support from the deceased member],~~ the beneficiary may elect to receive a lump-  
16 sum payment ***equal to the member's monthly average pay multiplied by thirty-six***  
17 ***(36) months***~~[of ten thousand dollars (\$10,000)].~~

18 (4) The payments provided by this section shall commence in the month following the  
19 date of death of the member and shall be payable to the spouse, dependent children,  
20 beneficiaries, or to a legally appointed guardian or as directed by the system.  
21 Benefits to a dependent child under this section shall be payable notwithstanding an  
22 election by a surviving spouse or beneficiary to withdraw the deceased member's  
23 accumulated account balance as provided in KRS 61.625 or to elect benefits under  
24 any other provisions of KRS 16.510 to 16.652.

25 (5) A surviving spouse or beneficiary eligible for benefits under subsection (1) or (3) of  
26 this section who is also eligible for benefits under any other provisions of KRS  
27 16.510 to 16.652 may elect benefits under this section or any other section of KRS

1 16.510 to 16.652 but cannot elect to receive both.

- 2 (6) (a) A surviving spouse or beneficiary applying for benefits under subsection (1)  
3 or (3) of this section who is also eligible for benefits under KRS 16.578 may  
4 elect to receive benefits under KRS 16.578(2)(a) or (b) while the application  
5 for benefits under subsection (1) or (3) of this section is pending.
- 6 (b) If a final determination results in a finding of eligibility for benefits under  
7 subsection (1) or (3) of this section, the system shall recalculate the benefits  
8 due the surviving spouse or beneficiary in accordance with this subsection.
- 9 (c) If the surviving spouse or beneficiary has been paid less than the amount of  
10 benefits to which the surviving spouse or beneficiary was entitled to receive  
11 under this section, the system shall pay the additional funds due to the  
12 surviving spouse or beneficiary.
- 13 (d) If the surviving spouse or beneficiary has been paid more than the amount of  
14 benefits to which the surviving spouse or beneficiary was entitled to receive  
15 under this section, the system shall deduct the amount overpaid to the  
16 surviving spouse or beneficiary from ~~any~~~~the ten thousand dollars (\$10,000)]~~  
17 lump-sum payment ***provided by this section*** and from the monthly retirement  
18 allowance payments until the amount owed to the systems has been recovered.

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

- 20 (1) Notwithstanding any provision of any statutes to the contrary, effective June 1,  
21 2000, any employee participating in one (1) of the state-administered retirement  
22 systems who is not in a hazardous duty position, as defined in KRS 61.592 or  
23 78.5520, shall be eligible for minimum benefits equal to the benefits payable under  
24 this section or KRS 61.702 or 78.5536, as applicable, if the employee dies or  
25 becomes totally and permanently disabled to engage in any occupation for  
26 remuneration or profit as a result of a duty-related injury.
- 27 (2) (a) For purposes of this section, "duty-related injury" means:

- 1           1.    a.    A single traumatic event that occurs while the employee is  
2                                   performing the duties of his or her position; or
- 3                    b.    A single act of violence committed against the employee that is  
4                                   found to be related to his or her job duties, whether or not it occurs  
5                                   at his or her job site; and
- 6            2.    The event or act of violence produces a harmful change in the human  
7                                   organism evidenced by objective medical findings.
- 8           (b)   "Duty-related injury" does not include the effects of the natural aging process,  
9                                   a communicable disease unless the risk of contracting the disease is increased  
10                                  by nature of the employment, or a psychological, psychiatric, or stress-related  
11                                  change in the human organism unless it is the direct result of a physical  
12                                  injury.
- 13   (3)   (a)   1.    If the employee dies as a result of a duty-related injury and is survived  
14                                   by a spouse, the surviving spouse shall be the beneficiary, and this shall  
15                                   supersede the designation of all previous beneficiaries of the deceased  
16                                   employee's retirement account, except as provided in KRS 61.542(2)(e).
- 17                   2.[(b)]   The surviving spouse, provided he or she supersedes all previously  
18                                   designated beneficiaries, may elect to receive the benefits payable under  
19                                   KRS 61.640 or other applicable death benefit statutes, or may elect to  
20                                   receive a lump-sum payment of ten thousand dollars (\$10,000) and a  
21                                   monthly payment equal to seventy-five percent (75%) of the member's  
22                                   monthly average pay beginning in the month following the member's  
23                                   death and continuing each month until the death of the surviving spouse.
- 24                   3.[(e)]   In addition, if the member is also survived by dependent children,  
25                                   monthly payments shall be made for each dependent child equal to ten  
26                                   percent (10%) of the deceased member's monthly average pay, except  
27                                   that the combined maximum payment made to the:

1            ~~a.[1-]~~ Surviving spouse and dependent children under this subsection  
2            shall not exceed one hundred percent (100%) of the deceased  
3            member's monthly average pay; and

4            ~~b.[2-]~~ Dependent children, while the surviving spouse is living, shall not  
5            exceed twenty-five percent (25%) of the deceased member's  
6            monthly average pay. Payments made to the dependent children  
7            under this subsection shall be divided equally among all the  
8            dependent children.

9            **(b) In the event an employee dies as a result of a duty-related injury in a**  
10            **nonhazardous position that could be certified as a hazardous position based**  
11            **upon KRS 61.592 and has on file in the retirement office at the time of his**  
12            **or her death a written designation of only one (1) beneficiary other than his**  
13            **or her spouse who has not been superseded by the surviving spouse as**  
14            **provided by this subsection, the beneficiary may elect to receive:**

15            **1. A lump-sum payment equal to the member's monthly average pay**  
16            **multiplied by thirty-six (36) months; or**

17            **2. The benefits payable under KRS 61.640 or other applicable death**  
18            **benefit statutes.**

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

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

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

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

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

3        (5) If the employee is determined to be disabled as provided in KRS 61.600, or other  
4        applicable disability statutes in any other state-administered retirement system, as  
5        the result of a duty-related injury, the employee may elect to receive benefits  
6        determined under the provisions of KRS 61.605, or other applicable disability  
7        statutes in any other state-administered retirement system, except that:

8        (a) If an employee is working in a nonhazardous position that could be certified  
9        as a hazardous position based upon KRS 61.592, the monthly retirement  
10       allowance shall not be less than seventy-five percent (75%) of the employee's  
11       monthly average pay; or

12       (b) If an employee is working in a nonhazardous position that could not be  
13       certified as a hazardous position based upon KRS 61.592, the monthly  
14       retirement allowance shall not be less than twenty-five percent (25%) of the  
15       employee's monthly final rate of pay.

16       For purposes of determining a disability that is the result of a duty related injury,  
17       the service requirement in KRS 61.600(1)(a), or other applicable statutes in any  
18       other state-administered retirement system, shall be waived.

19       (6) (a) In the period of time following the disability of a member covered by  
20       subsection (5)(a) of this section during which dependent children survive, a  
21       monthly payment shall be made for each dependent child who is alive which  
22       shall be equal to ten percent (10%) of the disabled member's monthly average  
23       pay, except that:

24       1. Member and dependent children payments under this section shall not  
25       exceed one hundred percent (100%) of the member's monthly average  
26       pay; and

27       2. Total maximum dependent children's benefits shall not exceed twenty-

1 five percent (25%) of the member's monthly average pay while the  
2 member is living and forty percent (40%) of the disabled member's  
3 monthly average pay after the member's death. The payment shall  
4 commence in the month following the date of disability of the member  
5 and shall be payable to the dependent children, or to a legally appointed  
6 guardian, or as directed by the system and shall be divided equally  
7 among all dependent children.

8 (b) In the period of time following the disability of a member covered by  
9 subsection (5)(b) of this section during which dependent children survive, a  
10 monthly payment shall be made for each dependent child who is alive which  
11 shall be equal to ten percent (10%) of the disabled member's monthly final  
12 rate of pay; except that total maximum dependent children's benefits shall not  
13 exceed forty percent (40%) of the disabled member's monthly final rate of pay  
14 at the time any particular payment is due. The payment shall commence in the  
15 month following the date of disability of the member and shall be payable to  
16 the dependent children, or to a legally appointed guardian, or as directed by  
17 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 surviving spouse or beneficiary applying for benefits under subsection (1)  
25 of this section who is also eligible for benefits under KRS 61.640 or 78.5532  
26 may elect to receive benefits under KRS 61.640(2)(a) or (b) or 78.5532(2)(a)  
27 or (b) while the application for benefits under this section is 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 or beneficiary  
3 in accordance with this subsection.
- 4 (c) If the spouse or beneficiary has been paid less than the amount of benefits to  
5 which the spouse or beneficiary was entitled to receive under this section, the  
6 system shall pay the additional funds due to the spouse.
- 7 (d) If the spouse or beneficiary has been paid more than the benefit the spouse or  
8 beneficiary was eligible to receive under this section, then the system shall  
9 deduct the amount owed by the spouse or beneficiary from ~~any~~<sup>the</sup> ~~ten~~  
10 ~~thousand dollars (\$10,000)]~~ lump-sum payment provided by this section and  
11 from the monthly retirement allowance payments until the amount owed to  
12 the systems has been recovered.
- 13 (9) For purposes of this section, "dependent child" has the same meaning as in KRS  
14 16.505.
- 15 (10) This section shall be known as "The Fred Capps Memorial Act."
- 16 ➔Section 3. KRS 78.5534 is amended to read as follows:
- 17 The provisions of this section shall apply to members in a hazardous position.
- 18 (1) If a member dies as a direct result of an act in line of duty as defined in KRS 78.510  
19 and is survived by a spouse:
- 20 (a) The surviving spouse shall be the beneficiary, and this shall supersede the  
21 designation of all previous beneficiaries of the deceased member's retirement  
22 account except as provided in KRS 61.542(2)(e);
- 23 (b) The surviving spouse, provided he or she supersedes all previously designated  
24 beneficiaries, may elect to receive a lump-sum payment of ten thousand  
25 dollars (\$10,000) and a monthly payment equal to seventy-five percent (75%)  
26 of the member's monthly average pay beginning in the month following the  
27 member's death and continuing each month until the death of the surviving



1 spouse; and

2 (c) In addition, if the member is also survived by dependent children, monthly  
3 payments shall be made for each dependent child equal to ten percent (10%)  
4 of the deceased member's monthly average pay, except that the combined  
5 maximum payment made to the:

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

9 2. Dependent children, while the surviving spouse is living, shall not  
10 exceed twenty-five percent (25%) of the deceased member's monthly  
11 average pay. Payments made to the dependent children under this  
12 subsection shall be divided equally among all the dependent children.

13 (2) If a member dies as a result of an act in line of duty as defined in KRS 78.510 and  
14 is not survived by a spouse but is survived by a dependent child or children, the  
15 following benefits shall be paid to the dependent child or children:

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

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

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

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

24 (3) If a member dies as a direct result of an act in line of duty as defined in KRS 78.510  
25 and the member has on file in the retirement office at the time of his or her death a  
26 written designation of only one (1) beneficiary other than his or her spouse who has  
27 not been superseded by the surviving spouse as provided by subsection (1)(a) of

1 this section~~], and who is a dependent receiving at least one-half (1/2) of his or her~~  
2 ~~support from the deceased member],~~ the beneficiary may elect to receive a lump-  
3 sum payment **equal to the member's monthly average pay multiplied by thirty-six**  
4 **(36) months**~~[of ten thousand dollars (\$10,000)].~~

5 (4) The payments provided by this section shall commence in the month following the  
6 date of death of the member and shall be payable to the spouse, dependent children,  
7 beneficiaries, or to a legally appointed guardian or as directed by the system.  
8 Benefits to a dependent child under this section shall be payable notwithstanding an  
9 election by a surviving spouse or beneficiary to withdraw the deceased member's  
10 accumulated account balance as provided in KRS 61.625 or to elect benefits under  
11 any other provisions of KRS 78.510 to 78.852.

12 (5) A surviving spouse or beneficiary eligible for benefits under subsection (1) or (3) of  
13 this section who is also eligible for benefits under any other provisions of KRS  
14 78.510 to 78.852 may elect benefits under this section or any other section of KRS  
15 78.510 to 78.852 but cannot elect to receive both.

16 (6) (a) A surviving spouse or beneficiary applying for benefits under subsection (1)  
17 or (3) of this section who is also eligible for benefits under KRS 78.5532 may  
18 elect to receive benefits under KRS 78.5532(2)(a) or (b) while the application  
19 for benefits under subsection (1) or (3) of this section is pending.

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

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

27 (d) If the surviving spouse or beneficiary has been paid more than the amount of

1           benefits which the surviving spouse or beneficiary was entitled to receive  
2           under this section, the system shall deduct the amount overpaid to the  
3           surviving spouse or beneficiary from ~~any~~~~[the ten thousand dollars (\$10,000)]~~  
4           lump-sum payment ***provided by this section*** and from the monthly retirement  
5           allowance payments until the amount owed to the systems has been recovered.