

1 AN ACT relating to bereavement leave.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Child" means:

7 1. An unemancipated minor who is under the care, custody, control, or
8 guardianship of an employee; or

9 2. A fetus in the womb that either results in a miscarriage or is stillborn;

10 (b) "Dependent" means any person who is under the temporary or permanent
11 care, custody, control, or guardianship of an employee; and

12 (c) "Immediate family member" means the child, spouse, stepchild, stepparent,
13 or grandparent of an employee.

14 (2) Every employer shall grant their employees bereavement leave following the
15 death, miscarriage, or stillbirth of the employee's child, or the death of a
16 dependent or other immediate family member of the employee.

17 (3) Bereavement leave provided pursuant to this section shall be:

18 (a) A minimum of ten (10) days, with a minimum of three (3) of those days paid
19 at the employee's current rate of pay. An employer shall not require an
20 employee to take the paid bereavement leave days consecutively; and

21 (b) Available to an employee for each child, dependent, or other immediate
22 family member upon death, miscarriage, or stillbirth.

23 (4) A bereavement leave request shall be made in writing to the employer within
24 fourteen (14) days of the employee learning of the death, miscarriage, or stillbirth
25 of a child, or the death of a dependent or other immediate family member.

26 (5) Paid bereavement leave under this section shall be provided regardless of the
27 employer's leave policies. An employer shall not require an employee to use

1 compensatory time, sick leave, vacation leave, or any other form of leave before
2 being eligible for bereavement leave.

3 (6) An employer shall not discharge an employee for requesting or taking
4 bereavement leave as provided in this section. The penalty for unlawful discharge
5 under this subsection include but is not limited to reemployment, assessment of
6 court costs, and payment of attorney fees, and back pay as ordered by a court of
7 competent jurisdiction.

8 (7) The commissioner may promulgate administrative regulations in accordance with
9 KRS Chapter 13A to implement the provisions of this section.

10 ➔Section 2. KRS 337.990 is amended to read as follows:

11 The following civil penalties shall be imposed by the Education and Labor Cabinet, in
12 accordance with the provisions in KRS 336.985, for violations of the provisions of this
13 chapter:

14 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
15 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
16 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
17 wages when due him or her under KRS 337.020 shall constitute a separate offense.

18 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
19 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

20 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
21 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
22 for each offense and shall make full payment to the employee by reason of the
23 violation. Each failure to pay an employee the wages as required by KRS 337.055
24 shall constitute a separate offense.

25 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
26 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
27 and shall also be liable to the affected employee for the amount withheld, plus

- 1 interest at the rate of ten percent (10%) per annum.
- 2 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
3 penalty of not less than one hundred dollars (\$100) nor more than one thousand
4 dollars (\$1,000) for each offense and shall make full payment to the employee by
5 reason of the violation.
- 6 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
7 of not less than one hundred dollars (\$100) nor more than one thousand dollars
8 (\$1,000) for each offense and each day that the failure continues shall be deemed a
9 separate offense.
- 10 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
11 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
12 commissioner or the commissioner's authorized representative in the performance
13 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
14 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
15 make any record or transcription thereof accessible to the commissioner or the
16 commissioner's authorized representative shall be assessed a civil penalty of not
17 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
18 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
19 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
20 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.
- 21 (8) Any employer who pays or agrees to pay wages at a rate less than the rate
22 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant
23 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)
24 nor more than one thousand dollars (\$1,000).
- 25 (9) Any employer who discharges or in any other manner discriminates against any
26 employee because the employee has made any complaint to his or her employer, to
27 the commissioner, or to the commissioner's authorized representative that he or she

1 has not been paid wages in accordance with KRS 337.275 and 337.285 or
2 regulations issued thereunder, or because the employee has caused to be instituted
3 or is about to cause to be instituted any proceeding under or related to KRS
4 337.385, or because the employee has testified or is about to testify in any such
5 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
6 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than
7 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

8 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not
9 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

10 (11) A person shall be assessed a civil penalty of not less than one hundred dollars
11 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or
12 in any other manner discriminates against an employee because the employee has:

13 (a) Made any complaint to his or her employer, the commissioner, or any other
14 person;~~[-or]~~

15 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
16 337.420 to 337.433; or

17 (c) Testified, or is about to testify, in any such proceedings.

18 **(12) Any employer who violates Section 1 of this Act shall be assessed a civil penalty**
19 **of not less than one hundred dollars (\$100) nor more than one thousand dollars**
20 **(\$1,000) for each offense.**

21 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO
22 READ AS FOLLOWS:

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

24 **(a) "Child" means:**

25 **1. An unemancipated minor who is under the care, custody, control, or**
26 **guardianship of an employee; or**

27 **2. A fetus in the womb that either results in a miscarriage or is stillborn;**

1 (b) "Dependent" means any person who is under the temporary or permanent
2 care, custody, control, or guardianship of an employee; and

3 (c) "Immediate family member" means the child, spouse, stepchild, stepparent,
4 or grandparent of an employee.

5 (2) Each state employee shall be granted bereavement leave following the death,
6 miscarriage, or stillbirth of the employee's child, or the death of a dependent or
7 other immediate family member of the employee.

8 (3) Bereavement leave provided pursuant to this section shall be:

9 (a) A minimum of ten (10) days, with a minimum of three (3) of those days paid
10 at the employee's current rate of pay. An appointing authority shall not
11 require an employee to take the paid bereavement leave days consecutively;
12 and

13 (b) Available to an employee for each child, dependent, or other immediate
14 family member upon death, miscarriage, or stillbirth.

15 (4) A bereavement leave request shall be made in writing to the appointing authority
16 within fourteen (14) days of the employee learning of the death, miscarriage, or
17 stillbirth of a child, or the death of a dependent, or other immediate family
18 member.

19 (5) An appointing authority shall not require an employee to use compensatory time,
20 sick leave, or annual leave before being eligible for bereavement leave.

21 ➔ Section 4. KRS 18A.110 is amended to read as follows:

22 (1) The secretary shall promulgate comprehensive administrative regulations for the
23 classified service governing:

- 24 (a) Applications and examinations;
25 (b) Certification and selection of eligibles;
26 (c) Classification and compensation plans;
27 (d) Incentive programs;

- 1 (e) Layoffs;
- 2 (f) Registers;
- 3 (g) Types of appointments;
- 4 (h) Attendance; hours of work; compensatory time; annual, court, military, sick,
- 5 voting, bereavement leave, living organ donor, and special leaves of absence,
- 6 provided that the secretary shall not promulgate administrative regulations
- 7 that would reduce the rate at which employees may accumulate leave time
- 8 below the rate effective on December 10, 1985; and
- 9 (i) Employee evaluations.
- 10 (2) The secretary shall promulgate comprehensive administrative regulations for the
- 11 unclassified service.
- 12 (3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate
- 13 administrative regulations that would reduce an employee's salary; and
- 14 (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed
- 15 administrative regulation providing for an initial probationary period in excess
- 16 of six (6) months to the board for its approval.
- 17 (4) The secretary may promulgate administrative regulations to implement state
- 18 government's affirmative action plan under KRS 18A.138.
- 19 (5) (a) The administrative regulations shall comply with the provisions of this
- 20 chapter and KRS Chapter 13A, and shall have the force and effect of law after
- 21 compliance with the provisions of KRS Chapters 13A and 18A and the
- 22 procedures adopted thereunder;
- 23 (b) Administrative regulations promulgated by the secretary shall not expand or
- 24 restrict rights granted to, or duties imposed upon, employees and
- 25 administrative bodies by the provisions of this chapter; and
- 26 (c) No administrative body other than the Personnel Cabinet shall promulgate
- 27 administrative regulations governing the subject matters specified in this

1 section.

2 (6) Prior to filing an administrative regulation with the Legislative Research
3 Commission, the secretary shall submit the administrative regulation to the board
4 for review.

5 (a) The board shall review the administrative regulation proposed by the secretary
6 not less than twenty (20) days after its submission to it;

7 (b) Not less than five (5) days after its review, the board shall submit its
8 recommendations in writing to the secretary;

9 (c) The secretary shall review the recommendations of the board and may revise
10 the proposed administrative regulation if he or she deems it necessary; and

11 (d) After the secretary has completed the review provided for in this section, he or
12 she may file the proposed administrative regulation with the Legislative
13 Research Commission pursuant to the provisions of KRS Chapter 13A.

14 (7) The administrative regulations shall provide:

15 (a) For the preparation, maintenance, and revision of a position classification plan
16 for all positions in the classified service, based upon similarity of duties
17 performed and responsibilities assumed, so that the same qualifications may
18 reasonably be required for, and the same schedule of pay may be equitably
19 applied to, all positions in the same class. The secretary shall allocate the
20 position of every employee in the classified service to one (1) of the classes in
21 the plan. The secretary shall reallocate existing positions, after consultation
22 with appointing authorities, when it is determined that they are incorrectly
23 allocated, and there has been no substantial change in duties from those in
24 effect when such positions were last classified. The occupant of a position
25 being reallocated shall continue to serve in the reallocated position with no
26 reduction in salary;

27 (b) For a pay plan for all employees in the classified service, after consultation

1 with appointing authorities and the state budget director. The plan shall take
2 into account such factors as:

- 3 1. The relative levels of duties and responsibilities of various classes of
4 positions;
- 5 2. Rates paid for comparable positions elsewhere taking into consideration
6 the effect of seniority on such rates; and
- 7 3. The state's financial resources.

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

- 15 (c) For the advertisement and acceptance of applications for at least five (5) days
16 for those positions to be filled by classified appointment or promotion. The
17 secretary may continue to receive applications and review applicants on a
18 continuous basis long enough to ensure a sufficient number of applicants;
- 19 (d) For the rejection of candidates or eligibles who fail to comply with reasonable
20 requirements of the secretary in regard to such factors as age, physical
21 condition, training, and experience, or who have attempted any deception or
22 fraud in connection with an examination;
- 23 (e) Except as provided by this chapter, for the appointment of a person whose
24 score is included in the five (5) highest scores earned on the examination;
- 25 (f) For annual, sick, and special leaves of absence, with or without pay, or
26 reduced pay, after approval by the Governor as provided by KRS
27 18A.155(1)(d);

- 1 (g) For layoffs, in accordance with the provisions of KRS 18A.113, by reasons of
2 lack of work, abolishment of a position, a material change in duties or
3 organization, or a lack of funds;
- 4 (h) For the development and operation of programs to improve the work
5 effectiveness of employees in the state service, including training, whether in-
6 service or compensated educational leave, safety, health, welfare, counseling,
7 recreation, employee relations, and employee mobility without written
8 examination;
- 9 (i) For a uniform system of annual employee evaluation for classified employees,
10 with status, that shall be considered in determining eligibility for discretionary
11 salary advancements, promotions, and disciplinary actions. The administrative
12 regulations shall:
- 13 1. Require the secretary to determine the appropriate number of job
14 categories to be evaluated and a method for rating each category;
 - 15 2. Provide for periodic informal reviews during the evaluation period
16 which shall be documented on the evaluation form and pertinent
17 comments by either the employee or supervisor may be included;
 - 18 3. Establish a procedure for internal dispute resolution with respect to the
19 final evaluation rating;
 - 20 4. Permit a classified employee, with status, who receives either of the two
21 (2) lowest possible evaluation ratings to appeal to the Personnel Board
22 for review after exhausting the internal dispute resolution procedure.
23 The final evaluation shall not include supervisor comments on ratings
24 other than the lowest two (2) ratings;
 - 25 5. Require that an employee who receives the highest possible rating shall
26 receive the equivalent of two (2) workdays, not to exceed sixteen (16)
27 hours, credited to his or her annual leave balance. An employee who

1 receives the second highest possible rating shall receive the equivalent
2 of one (1) workday, not to exceed eight (8) hours, credited to his or her
3 annual leave balance; and

4 6. Require that an employee who receives the lowest possible evaluation
5 rating shall either be demoted to a position commensurate with the
6 employee's skills and abilities or be terminated; and

7 (j) For other administrative regulations not inconsistent with this chapter and
8 KRS Chapter 13A, as may be proper and necessary for its enforcement.

9 (8) For any individual hired or elected to office before January 1, 2015, and paid
10 through the Kentucky Human Resources Information System, the Personnel
11 Cabinet shall not require payroll payments to be made by direct deposit or require
12 the individual to use a web-based program to access his or her salary statement.

13 (9) To the extent that KRS 16.010 to 16.199, 16.080, and 16.584 and administrative
14 regulations promulgated by the commissioner of the Department of Kentucky State
15 Police under authority granted in KRS Chapter 16 conflict with this section or any
16 administrative regulation promulgated by the secretary pursuant to authority
17 granted in this section, the provisions of KRS Chapter 16 shall prevail.

18 ➔Section 5. This Act may be cited as the Bereavement Leave Act.