

397.1005 Evidence of death or status.

In addition to the rules of evidence in courts of general jurisdiction, for the purposes of KRS 397.1001 to 397.1007 only, the following rules relating to a determination of death and status shall apply:

- (1) Death shall be deemed to occur when the requirements of KRS 446.400 have been met.
- (2) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred shall be prima facie evidence of the fact, place, date, and time of death and the identity of the decedent.
- (3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive shall be prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report.
- (4) In the absence of prima facie evidence of death under subsection (2) or (3) of this section, the fact of death shall be established by clear and convincing evidence, including circumstantial evidence.
- (5) An individual whose death is not established under subsection (2), (3), or (4) of this section and who is absent for a continuous period of seven (7) years, during which the individual has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, shall be presumed dead. His or her death shall be presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.
- (6) In the absence of evidence disputing the time of death stipulated on a document described in subsection (2) or (3) of this section, a document described in subsection (2) or (3) of this section that stipulates a time of death one hundred twenty (120) hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by one hundred twenty (120) hours.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 415, sec. 5, effective July 15, 1998.