

Sec. 145.45. ~~In~~ EXCEPT AS PROVIDED IN DIVISION (C)(1) OF THIS SECTION, IN lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in this section or section 145.43 of the Revised Code, may elect to forfeit the accumulated contributions and to substitute certain other benefits under division (A) or (B) of this section.

(A) If a deceased member was eligible for a service retirement benefit as provided in section 145.33, 145.331, or 145.34 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as the joint-survivor benefit designated as "plan D" in section 145.46 of the Revised Code, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such joint-survivor plan. Payment shall begin with the month subsequent to the member's death, except that a surviving spouse who is less than sixty-five years old may defer receipt of such benefit. Upon receipt, the benefit shall be calculated based upon the spouse's age at the time of first payment, and shall accrue regular interest during the time of deferral.

(B) If a deceased member had at least one and one-half years of contributing service credit, with at least one-quarter year of contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 145.36, 145.361, or 145.37 of the Revised Code, certain ~~designated beneficiaries~~ QUALIFIED SURVIVORS may elect to receive monthly benefits as provided in divisions (B)(1) and (5) of this section.

(1) Number of Qualified dependents	Or
SURVIVORS affecting the benefit	Monthly Benefit shall not be less than
Annual Benefit as a Per Cent of Decedent's Final Average Salary	
1 25%	\$ 96
2 40	186
3 50	236
4 55	236
5 or more 60	236

(2) Benefits shall begin as qualified ~~dependents~~ SURVIVORS meet eligibility requirements as follows:

(a) Spouse A QUALIFIED SPOUSE IS THE SURVIVING SPOUSE of the deceased member, who is age sixty-two, or age fifty if the deceased member had ten or more years of Ohio service credit, or regardless of age if caring for a dependent QUALIFIED child, or regardless of age if adjudged physically or mentally incompetent. A spouse of a member who died prior to August 27, 1970, whose eligibility was determined at the member's death, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit which that person would otherwise receive when qualified by age.

(b) ~~Dependent~~ A QUALIFIED child shall be IS any unmarried child of the deceased member under age eighteen, or under age twenty-two if the child is attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of such institution and as further determined by board policy, or regardless of age if adjudged physically or mentally incompetent at the time of the member's death. ~~If not domiciled in the deceased member's household at time of death, to qualify as a dependent child the deceased member must have contributed to one-half or more of the child's support during the twelve-month period prior to death.~~ "Child" as used in this section includes a legally adopted child. ~~If a court hearing for an interlocutory decree for adoption has been held prior to the time of the member's death, the beneficiary shall qualify for the monthly benefit notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the death of the member.~~

(c) A QUALIFIED PARENT IS A dependent parent aged sixty-five or more who received at least one-half of his support from the member during the twelve-month period immediately preceding the member's death ~~OLDER~~ or regardless of age if physically or mentally incompetent, a dependent parent whose eligibility was determined by the member's death prior to August 20, 1976, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit for which that person would otherwise qualify.

(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of making a living because of a physically or mentally disabling condition shall meet the qualifications of this division.

(4) Benefits to a qualified dependent SURVIVOR shall terminate upon ceasing to meet eligibility requirements as provided in this division, A FIRST marriage, ~~remarriage~~, abandonment, adoption, or during active military service, ~~except that benefits terminated under this division due to a first remarriage shall resume if the remarriage ceases within two years due to divorce, annulment, dissolution, or death. If the surviving spouse of a deceased member remarries on or after the effective date of this amendment and at the time of remarriage has attained age fifty-five, the benefits provided by this division shall continue. The benefits provided by this division also shall continue to a deceased member's surviving spouse who remarried prior to the effective date of this amendment and had attained age sixty-two at the time of the remarriage. If the benefits of a deceased member's surviving spouse were terminated under this division due to a remarriage occurring on or after February 15, 1995, and if at the time of remarriage the surviving spouse had attained age fifty-five, the benefits terminated under this division shall resume on the first day of the month immediately following the effective date of this amendment. Upon.~~ BENEFITS TO A DECEASED MEMBER'S SURVIVING SPOUSE THAT WERE TERMINATED UNDER A FORMER VERSION OF THIS SECTION THAT REQUIRED TERMINATION DUE TO REMARRIAGE AND WERE NOT RESUMED PRIOR TO THE EFFEC-

TIVE DATE OF THIS AMENDMENT SHALL RESUME ON THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING RECEIPT BY THE BOARD OF AN APPLICATION ON A FORM PROVIDED BY THE BOARD.

UPON the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 3307.49 or 3309.45 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified ~~dependent~~ SURVIVOR.

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5) Benefits to a qualified spouse shall be paid in the amount determined for the first qualifying ~~dependent~~ SURVIVOR in division (B)(1) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other qualifying ~~dependents~~ SURVIVORS shall share equally in the benefit or remaining portion thereof.

(6) The beneficiary of a member who is also a member of the state teachers retirement system or of the school employees retirement system, must forfeit the member's accumulated contributions in those systems and in the public employees retirement system, if the beneficiary ~~elects to receive~~ TAKES a survivor benefit. Such benefit shall be exclusively governed by section 145.37 of the Revised Code.

(*) (C)(1) REGARDLESS OF WHETHER THE MEMBER IS SURVIVED BY A SPOUSE OR DESIGNATED BENEFICIARY, IF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM RECEIVES NOTICE THAT A DECEASED MEMBER DESCRIBED IN DIVISION (A) OR (B) OF THIS SECTION HAS ONE OR MORE QUALIFIED CHILDREN, ALL PERSONS WHO ARE QUALIFIED SURVIVORS UNDER DIVISION (B) OF THIS SECTION SHALL RECEIVE MONTHLY BENEFITS AS PROVIDED IN DIVISION (B) OF THIS SECTION.

IF, AFTER DETERMINING THE MONTHLY BENEFITS TO BE PAID UNDER DIVISION (B) OF THIS SECTION, THE SYSTEM RECEIVES NOTICE THAT THERE IS A QUALIFIED SURVIVOR WHO WAS NOT CONSIDERED WHEN THE DETERMINATION WAS MADE, THE SYSTEM SHALL, NOTWITHSTANDING SECTION 145.561 OF THE REVISED CODE, RECALCULATE THE MONTHLY BENEFITS WITH THAT QUALIFIED SURVIVOR INCLUDED, EVEN IF THE BENEFITS TO QUALIFIED SURVIVORS ALREADY RECEIVING BENEFITS ARE REDUCED AS A RESULT. THE BENEFITS SHALL BE CALCULATED AS IF THE QUALIFIED SURVIVOR WHO IS THE SUBJECT OF THE NOTICE

BECAME ELIGIBLE ON THE DATE THE NOTICE WAS RECEIVED AND SHALL BE PAID TO QUALIFIED SURVIVORS EFFECTIVE ON THE FIRST DAY OF THE FIRST MONTH FOLLOWING THE SYSTEM'S RECEIPT OF THE NOTICE.

IF THE RETIREMENT SYSTEM DID NOT RECEIVE NOTICE THAT A DECEASED MEMBER HAS ONE OR MORE QUALIFIED CHILDREN PRIOR TO MAKING PAYMENT UNDER SECTION 145.43 OF THE REVISED CODE TO A BENEFICIARY AS DETERMINED BY THE RETIREMENT SYSTEM, THE PAYMENT IS A FULL DISCHARGE AND RELEASE OF THE SYSTEM FROM ANY FUTURE CLAIMS UNDER THIS SECTION OR SECTION 145.43 OF THE REVISED CODE.

(2) IF BENEFITS UNDER DIVISION (C)(1) OF THIS SECTION TO ALL PERSONS, OR TO ALL PERSONS OTHER THAN A SURVIVING SPOUSE OR OTHER SOLE BENEFICIARY, TERMINATE, THERE ARE NO CHILDREN UNDER THE AGE OF TWENTY-TWO YEARS, AND THE SURVIVING SPOUSE OR BENEFICIARY QUALIFIES FOR BENEFITS UNDER DIVISION (A) OF THIS SECTION, THE SURVIVING SPOUSE OR BENEFICIARY MAY ELECT TO RECEIVE BENEFITS UNDER DIVISION (A) OF THIS SECTION. THE BENEFITS SHALL BE EFFECTIVE ON THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE TERMINATION.

(D) If the survivor benefits due and paid under this section are in a total amount less than the member's accumulated account that was transferred from the public employees' savings fund to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 145.43 of the Revised Code.

SECTION 8. As used in this section, "member" means a member of the Public Employees Retirement System, School Employees Retirement System, or State Teachers Retirement System.

The amendments to sections 145.43, 145.45, 3307.48, 3307.49, 3309.44, and 3309.45 of the Revised Code by this act shall apply with regard to members whose deaths occur on or after the effective date of this act.

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2 of 2