

Page 1 of 3

144 OH
Ann Sub
HB 721

Sec. 3307.49. (A) AS USED IN THIS SECTION, "PHYSICALLY OR MENTALLY INCOMPETENT" MEANS INCAPABLE OF EARNING A LIVING BECAUSE OF A PHYSICALLY OR MENTALLY DISABLING CONDITION. PHYSICAL OR MENTAL INCOMPETENCY MAY BE DETERMINED BY A COURT OR BY A DOCTOR OF MEDICINE OR OSTEOPATHIC MEDICINE APPOINTED BY THE STATE TEACHERS RETIREMENT BOARD.

(B) FOR THE PURPOSES OF THIS SECTION:

(1) TO QUALIFY AS A "SURVIVING SPOUSE," THE SPOUSE OF A DECEASED MEMBER OF THE STATE TEACHERS RETIREMENT SYSTEM MUST BE ONE OF THE FOLLOWING:

(a) AGE SIXTY-TWO OR ANY AGE IF THE DECEASED MEMBER HAD TEN OR MORE YEARS OF OHIO SERVICE CREDIT;

(b) CARING FOR A DEPENDENT CHILD;

(c) ADJUDGED PHYSICALLY OR MENTALLY INCOMPETENT;

(d) ANY AGE IF THE DECEASED MEMBER WAS ELIGIBLE FOR A SERVICE RETIREMENT ALLOWANCE AS PROVIDED IN SECTION 3307.38 OF THE REVISED CODE AND THE SURVIVING SPOUSE ELECTS TO RECEIVE A BENEFIT UNDER DIVISION (C)(1) OF THIS SECTION.

(2)(a) TO QUALIFY AS A "DEPENDENT CHILD," THE CHILD OF A DECEASED MEMBER MUST MEET ALL OF THE FOLLOWING:

(i) BE UNMARRIED;

(ii) BE UNDER AGE EIGHTEEN, OR UNDER AGE TWENTY-TWO IF 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 ANY AGE IF ADJUDGED PHYSICALLY OR MENTALLY INCOMPETENT;

(iii) HAVE BEEN DOMICILED IN THE MEMBER'S HOUSEHOLD AT THE TIME OF HIS DEATH UNLESS THE DECEASED MEMBER CONTRIBUTED TO ONE-HALF OR MORE OF THE CHILD'S SUPPORT DURING THE TWELVE-MONTH PERIOD PRIOR TO THE MEMBER'S DEATH.

(b) IF A COURT HEARING FOR AN INTERLOCUTORY DECREE FOR ADOPTION WAS HELD PRIOR TO THE MEMBER'S DEATH, A CHILD WHO MEETS THE CONDITIONS OF DIVISION (B)(2)(a) OF THIS SECTION QUALIFIES AS A DEPENDENT CHILD IF A FINAL DECREE OF ADOPTION ADJUDGING THE MEMBER'S SPOUSE AS THE ADOPTIVE PARENT IS MADE SUBSEQUENT TO THE MEMBER'S DEATH.

(3) TO QUALIFY AS A "DEPENDENT PARENT," THE PARENT OF A DECEASED MEMBER MUST BE AGE SIXTY-FIVE OR OLDER AND HAVE RECEIVED AT LEAST ONE-HALF OF HIS SUPPORT FROM THE MEMBER DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE MEMBER'S DEATH.

(4) A PERSON IS A "QUALIFIED DEPENDENT" IF HE QUALIFIES AS A SURVIVING SPOUSE, DEPENDENT CHILD, OR DEPENDENT PARENT.

(C) In lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in section 3307.48 of the Revised Code, may elect to forfeit the accumulated account and to substitute ~~certain other~~ benefits under THIS division ~~(A) or (B) of this section.~~

~~(A)~~(1) If a deceased member was eligible for a service retirement allowance as provided in section 3307.38 or 3307.39 of the Revised Code, a surviving spouse ~~or other sole~~, A QUALIFIED dependent DESIGNATED AS THE MEMBER'S SOLE beneficiary PURSUANT TO DIVISION (B) OF SECTION 3307.48 OF THE REVISED CODE, OR AN INDIVIDUAL DESIGNATED AS THE MEMBER'S SOLE BENEFICIARY PURSUANT TO DIVISION (B) OF SECTION 3307.48 OF THE REVISED CODE WHO RECEIVED ONE-HALF OR MORE OF HIS SUPPORT FROM THE MEMBER DURING THE TWELVE-MONTH PERIOD PRECEDING THE MEMBER'S DEATH may elect to receive a monthly benefit computed as the joint-survivor allowance designated as option 1 in section 3307.50 of the Revised Code, which the member would have received had he retired on the last day of the month of death and had he at that time selected such joint-survivor plan. Payment shall begin with the month subsequent to the member's death.

~~(B)~~(2) If a deceased member had completed at least one and one-half years of credit for Ohio service, with at least one-quarter year of Ohio 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 3307.43 or 3307.431 of the Revised Code, ~~certain designated beneficiaries~~ A SURVIVING SPOUSE OR OTHER QUALIFIED DEPENDENT BENEFICIARY may elect to receive monthly benefits as provided in ~~divisions (B)(1) and (5)~~ DIVISION (C)(2) of this section. THE SURVIVING SPOUSE OR OTHER QUALIFIED DEPENDENT BENEFICIARY SHALL ELECT ONE OF THE FOLLOWING METHODS OF CALCULATING BENEFITS ELECTED UNDER DIVISION (C)(2) OF THIS SECTION, WHICH SHALL REMAIN IN EFFECT WITHOUT REGARD TO ANY CHANGE IN THE NUMBER OF QUALIFIED DEPENDENTS:

(1) (a) Number of qualified dependents affecting the benefit	Annual benefit as a per cent of decedent's MEMBER'S final average salary	Monthly benefit shall not be less than or
1	25%	\$ 96
2	40	186

Emergency Clause Effective 12-14-92

Page 2 of 3

(b) YEARS OF SERVICE	
3	50
4	55
5 or more	60

ANNUAL BENEFIT AS A PER CENT OF MEMBER'S FINAL AVERAGE SALARY

20	29%
21	33
22	37
23	41
24	45
25	48
26	51
27	54
28	57
29	60

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

(a) Spouse of the deceased member, who is age sixty-two or any age if the deceased member had ten or more years of Ohio service credit; the spouse is caring for a dependent child; or the spouse is adjudged physically or mentally incompetent.

(b) Dependent child shall be 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; 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 interdictatory decree for adoption has been held prior to the time of the member's death, the child 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 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.

(d) "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; incapacity of earning a living because of a physical or mental disability shall meet the qualifications of this division.

(4) Benefits to a qualified dependent shall terminate upon marriage; remarriage; abandonment; adoption; or during active military service.

except that benefits terminated under this division due to a first remarriage shall resume if either of the following occurs:

- (a) The remarriage occurs within two years due to divorce, annulment, dissolution, or death;
- (b) Regardless of its duration, the remarriage ceases due to divorce, annulment, dissolution, or death;

If the surviving spouse of a deceased member remarries after attaining age sixty-two:

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 150.15 or 220.15 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.

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 (D) IF A BENEFIT IS CALCULATED PURSUANT TO DIVISION (C)(2)(a) OF THIS SECTION, BENEFITS TO A QUALIFIED SURVIVING spouse shall be paid in the amount determined for the first qualifying dependent in division (B)(1) (C)(2)(a) 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 shall share equally in the benefit or remaining portion thereof.

(6) IF A BENEFIT IS CALCULATED PURSUANT TO MORE THAN ONE QUALIFIED DEPENDENT, THE BENEFIT SHALL BE APPORTIONED EQUALLY AMONG THE QUALIFIED DEPENDENTS, EXCEPT THAT IF THERE IS A SURVIVING SPOUSE, THE PORTION OF THE BENEFIT ALLOCATED TO THE SURVIVING SPOUSE SHALL BE AS FOLLOWS:

NUMBER OF DEPENDENTS	SPOUSES SHARE OF TOTAL BENEFIT
2	62.5%
3	50.0%
4	45.45%
5 OR MORE	41.67%

(E) BENEFITS PAYABLE UNDER DIVISION (C)(2) OF THIS SECTION SHALL BEGIN OR RESUME ON THE FIRST DAY OF THE MONTH FOLLOWING THE DAY A PERSON BECOMES A QUALIFIED DEPENDENT AND TERMINATE OR BE SUSPENDED ON THE FIRST DAY OF THE MONTH FOLLOWING THE DAY HE CEASES TO BE A QUALIFIED DEPENDENT.

1/14/92
Am. Bill
1/13/92

1/2-14-92
Am. Bill

Page 3 of 3

144 On
Am. Sub
HB 721

BENEFITS TO A QUALIFIED DEPENDENT SHALL TERMINATE UPON MARRIAGE, REMARRIAGE, ABANDONMENT, ADOPTION, OR DURING ACTIVE MILITARY SERVICE, EXCEPT THAT BENEFITS TERMINATED UNDER THIS DIVISION DUE TO A FIRST REMARRIAGE SHALL RESUME IF EITHER OF THE FOLLOWING OCCURS:

(1) THE REMARRIAGE CEASES WITHIN TWO YEARS DUE TO DIVORCE, ANNULMENT, DISSOLUTION, OR DEATH;

(2) REGARDLESS OF ITS DURATION, THE REMARRIAGE CEASES DUE TO DIVORCE, ANNULMENT, DISSOLUTION, OR DEATH AND THE DEPENDENT ATTAINS OR HAS ATTAINED AGE SIXTY-TWO.

IF THE SURVIVING SPOUSE OF A DECEASED MEMBER REMARRIES AFTER ATTAINING THE AGE OF SIXTY-TWO, THE BENEFITS PROVIDED BY THIS DIVISION SHALL CONTINUE. 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 145.45 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.

(F) The beneficiary of a member who is also a member of the public employees retirement system, or the school employees retirement system, must forfeit the member's accumulated contributions in those systems, if he elects to receive a ~~survivor~~ benefit UNDER DIVISION (C) OF THIS SECTION. Such benefit shall be exclusively governed by section 3307.41 of the Revised Code.

~~(G)~~ If the ~~survivor~~ benefits due and paid under DIVISION (C) OF this section are in a total amount less than the member's accumulated account that was transferred from the teachers' savings fund, school employees retirement fund, and public employees retirement 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 3307.48 of the Revised Code.

~~(H)~~ On and after March 29, 1988:

~~(1)~~ Regardless of age, if the surviving spouse of a deceased member who died prior to March 29, 1988, with ten or more years of Ohio service credit has elected to receive monthly benefits under ~~divisions (B)(1) to (5)~~ DIVISION (C)(2) of this section, the surviving spouse shall receive the benefits.

~~(2)~~ Benefits to a surviving spouse that were terminated prior to March 29, 1988, due to a first remarriage shall resume, regardless of the duration of the remarriage, if the remarriage has ceased due to divorce, annulment, dissolution, or death and the surviving spouse attains or has attained age sixty-two.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the cases of several individuals are pending resolution. Therefore, this act shall go into immediate effect.

Emergency Clause

Effective 12-14-92