

1480.L.
Sub S.B. 190

Sec. ~~3307.49~~ 3307.66. (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) A qualified spouse is the surviving spouse of a deceased member of the state teachers retirement system PARTICIPATING IN THE PLAN DESCRIBED IN SECTIONS 3307.50 TO 3307.79 OF THE REVISED CODE who is 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 qualified 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 ~~3307.58~~ 3307.58 of the Revised Code and the surviving spouse elects to receive a benefit under division (C)(1) of this section.

(2) A qualified child is the child of a deceased member PARTICIPATING IN THE PLAN DESCRIBED IN SECTIONS 3307.50 TO 3307.79 OF THE REVISED CODE who is both of the following:

- (a) Unmarried;
- (b) 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.

(3) A qualified parent is a dependent parent of a deceased member PARTICIPATING IN THE PLAN DESCRIBED IN SECTIONS 3307.50 TO 3307.79 OF THE REVISED CODE who is age sixty-five or older.

(4) A person is a "qualified survivor" if the person qualifies as a surviving spouse, child, or dependent parent.

(C) Except as provided in division (G)(1) of this section, in lieu of accepting the payment of the accumulated account of a member PARTICIPATING IN THE PLAN DESCRIBED IN SECTIONS 3307.50 TO 3307.79 OF THE REVISED CODE who dies before service retirement, a beneficiary, as determined in section ~~3307.48~~ 3307.562 of the Revised Code, may elect to forfeit the accumulated account and to substitute benefits under this division.

(1) If a deceased member was eligible for a service retirement allowance as provided in section ~~3307.58~~ 3307.58 or ~~3307.59~~ 3307.59 of the Revised Code, a surviving spouse or an individual designated as the member's sole beneficiary pursuant to division (B) of section ~~3307.48~~ 3307.562 of the Revised Code who was a qualified child or dependent parent of the member or received one-half or more of 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 ~~3307.60~~ 3307.60 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.

(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~~ 3307.63 or ~~3307.431~~ 3307.631 of the Revised Code, a surviving spouse or other qualified survivor may elect to receive monthly benefits as provided in division (C)(2) of this section. The surviving spouse or other qualified survivor shall elect one of the following methods of calculating benefits elected under division (C)(2) of this section, which shall, except as provided in division (G)(1) of this section, remain in effect without regard to any change in the number of qualified survivors:

Or

- (a) Number Annual benefit as a Monthly benefit

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of qualified survivors	per cent of member's final average salary	shall not be less than
1	25%	\$ 96
2	40	186
3	50	236
4	55	236
5 or more	60	236

(b) Years of service	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

(D) If a benefit is calculated pursuant to division (C)(2)(a) of this section, benefits to a surviving spouse shall be paid in the amount determined for the first qualifying survivor in division (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 survivors shall share equally in the benefit or remaining portion thereof.

If a benefit is calculated pursuant to division (C)(2)(b) of this section and is payable to more than one qualified survivor, the benefit shall be apportioned equally among the qualified survivors, except that if there is a surviving spouse, the portion of the benefit allocated to the surviving spouse shall be as follows:

Number of survivors	Spouse's 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 survivor and terminate or be suspended on the first day of the month following the day the person ceases to be a qualified survivor.

Benefits to a qualified survivor shall terminate upon a first marriage, abandonment, adoption, or during active military service. 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 effective 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 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 survivor.

(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 the beneficiary elects to receive a benefit under division (C) of this section. Such benefit shall be exclusively governed by section ~~3307.41~~ 3307.57 of the Revised Code.

(G)(1) Regardless of whether the member is survived by a spouse or designated beneficiary, if the state teachers retirement system receives notice that a deceased member described in division (C)(1) or (2) of this section has one or more qualified children, all persons who are qualified survivors under division (C)(2) of this section shall receive monthly benefits as provided in division (C)(2) of this section.

If, after determining the monthly benefits to be paid under division (C)(2) 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 ~~3307.71~~ 3307.42 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 ~~3307.48~~ 3307.562 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 ~~3307.48~~ 3307.562 of the Revised Code.

(2) If benefits under division (C)(2) of this section to all persons, or to all persons other than a surviving spouse or 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 (C)(1) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (C)(1) of this section. The benefit shall be calculated based on the age of the spouse or beneficiary at the time of the member's death and is effective on the first day of the month following receipt by the board of an application for benefits under division (C)(1) of this section.

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(H) If the 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~~ 3307.562 of the Revised Code.