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Sec. 3309.44. (A) As used in this section:
(1) "~~dependent~~ DEPENDENT child" is ~~one~~ A DEPENDENT CHILD defined in section 3309.45 of the Revised Code;

(2) "Dependent parent" is a person who is a dependent parent for the purposes of section 3309.45 of the Revised Code.

~~(A)~~(B) Should a member die before service or commuted service retirement, his accumulated contributions shall be paid to such beneficiaries as he has nominated by written designation signed by him and filed with the school employees retirement board prior to his death. The nomination of beneficiaries shall be on a form provided by the retirement board. The last nomination of any beneficiary revokes all previous nominations. The member's marriage, divorce, legal dissolution, legal separation, or withdrawal of account, or the birth of his child, or his adoption of a child, constitutes an automatic revocation of his last nomination. IF A DECEASED MEMBER WAS ALSO A MEMBER OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OR THE STATE TEACHERS RETIREMENT SYSTEM, THE BENEFICIARY LAST ESTABLISHED AMONG THE SYSTEMS SHALL BE THE SOLE BENEFICIARY IN ALL THE SYSTEMS.

Any beneficiary ineligible for monthly survivor benefits as provided by section 3309.45 of the Revised Code may waive in writing all claim to any benefits and such waiver shall thereby put in effect the succession of beneficiaries under division ~~(B)~~(C) of this section, provided the beneficiary thereunder is immediately eligible and agrees in writing to accept survivor benefits as provided by section 3309.45 of the Revised Code. ~~(1) When a deceased member was also a member of the public employees retirement system or the state teachers retirement system, the beneficiary last established among the systems of membership shall be the sole beneficiary in all the systems. (2)~~

If the accumulated contributions of a deceased member are not claimed by a beneficiary, or by the estate of the deceased member, within ten years, they shall be transferred to the guarantee fund and thereafter paid to such beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt rules governing all designations of beneficiaries.

~~(B)~~(C) If a member dies before service or commuted service retirement and is not survived by a nominated beneficiary, any survivors shall qualify as beneficiaries, in the following order of precedence, with all attendant rights and privileges:

- (1) ~~the spouse of the member~~ SPOUSE;
- (2) ~~if no spouse, the youngest~~ YOUNGEST dependent child if ~~(a)~~ such child elects to take survivor benefits under division (B) of section 3309.45 of the Revised Code, and ~~(b)~~ the total amount of survivor benefits payable to all dependent children by such election exceeds the amount of the accumulated account subject to refund;
- (3) ~~if none of the above, a~~ A financially dependent incompetent progeny of the member, provided the incompetent progeny elects to take a survivor benefit under division (B) of section 3309.45 of the Revised Code;
- (4) ~~if none of the above, the children of the member~~ CHILDREN, share and share alike;

~~(5) if none of the above, the older~~ A DEPENDENT parent of the member, IF THAT PARENT ELECTS TO TAKE SURVIVOR BENEFITS UNDER DIVISION (B) OF SECTION 3309.45 OF THE REVISED CODE;

~~(6) if none of the above, the estate of the member~~ PARENTS, SHARE AND SHARE ALIKE;

(7) ESTATE.

Any payment made to a beneficiary as determined by the school employees retirement board shall be a full discharge and release to the board from any future claims.

~~(C)~~(D) Any amount due any person, as an annuitant receiving a monthly service or commuted service retirement allowance or benefit, and unpaid to him at death, shall be paid, except as otherwise provided for in division (C) of section 3309.46 of the Revised Code, to the beneficiary nominated by written designation signed by him and filed with the board. The nomination of a beneficiary shall be on a form provided by the retire-

ment board. If no such nomination has been filed, or if the nominated beneficiary is deceased, such amount shall be paid, except as otherwise provided in section 3309.45 of the Revised Code, IN THE FOLLOWING ORDER OF PRECEDENCE to THE ANNUITANT'S:

- (1) ~~the surviving~~ SURVIVING spouse of the annuitant;
- (2) ~~the children of the annuitant~~ CHILDREN, SHARE AND SHARE ALIKE;
- (3) ~~the older parent of the annuitant~~ PARENTS, SHARE AND SHARE ALIKE;
- (4) ~~the estate of the annuitant, with preference being given in the order named~~ ESTATE.

For the purpose of this division, an annuitant is the last person who received a monthly allowance or benefit pursuant to the plan of payment selected by the retirant. Such payment shall be a full discharge and release to the board from any future claim for such payment.

(E) If the validity of marriage cannot be established to the satisfaction of the retirement board for the purpose of disbursing any amount due under this section or section 3309.45 of the Revised Code, the retirement board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that ~~(1)~~ the relationship constituted a valid marriage at the time of death, or ~~(2)~~ the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's intestate personal property.

If any amount due under this section is payable to a beneficiary who has been found guilty by a court of law of feloniously contributing to the death of the member, then such payment shall not be paid to such beneficiary in the absence of a court order to the contrary filed with the retirement board.

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Am. Sub.
H.B. 167

Section 3309.44 of the Revised Code is amended by this act and also by Am. Sub. H.B. 167 of the 118th General Assembly. Section 3309.39 of the Revised Code is amended by this act and also by Sub. S.B. 182 of the 118th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that they are not irreconcilable, so that they are required by that section to be harmonized to give effect to each amendment.

Reed Steward

Director, Legislative Service Commission

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