



## Ohio Revised Code

### Section 3307.66 Beneficiary may substitute other benefits.

Effective: April 6, 2017

Legislation: House Bill 520 - 131st General Assembly

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(A) As used in this section:

(1) "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.

(2) "Qualifying service credit" has the same meaning as in section 3307.58 of the Revised Code.

(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 STRS defined benefit plan who is one of the following:

(a) Sixty-two years of age or older 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 at the time of the member's death and has remained continuously incompetent;

(d) Any age if the deceased member was eligible for a service retirement allowance as provided in section 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 a person who is the child of a deceased member participating in the STRS defined benefit plan to whom both of the following apply:



(a) Never married;

(b) Meets either of the following age-related requirements:

(i) Is under age twenty-two;

(ii) Is any age if adjudged physically or mentally incompetent, if the person became incompetent prior to attainment of age twenty-two and has remained continuously incompetent.

(3) A qualified parent is a dependent parent of a deceased member participating in the STRS defined benefit plan 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 STRS defined benefit plan who dies before service retirement, a beneficiary, as determined in section 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 or 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 3307.562 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 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.

(2)(a) A surviving spouse or other qualified survivor may elect to receive monthly benefits under division (C)(2) of this section if any of the following apply:

(i) The deceased member had service credit on account on June 30, 2013, and had completed at least



one and one-half years of qualifying service credit, with at least one-quarter year of qualifying service credit within the two and one-half years prior to the date of death, or, if the member did not have service credit on account on June 30, 2013, had completed at least five years of qualifying service credit and died not later than one year after the date contributing service terminated.

(ii) The member was receiving at the time of death a disability benefit as provided in section 3307.63 or 3307.631 of the Revised Code.

(iii) The member was receiving, within twelve months prior to the date of death, a disability benefit as provided in section 3307.63 or 3307.631 of the Revised Code and was contributing under this chapter or Chapter 145. or 3309. of the Revised Code at the time of death.

(b) 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:

(i) Number of qualified survivors	Annual benefit as a per cent of member's final average salary
1	25%
2	40
3	50
4	55
5 or more	60
(ii) 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 or more	60

(3)(a) If at the time of death the deceased member was receiving a disability benefit under section 3307.63 or 3307.631 of the Revised Code, the benefit elected under division (C)(1) or (2) of this section shall be increased by a percentage equal to the total of any percentage increases the member received under section 3307.67 of the Revised Code, plus any additional amount the member received under this chapter while receiving the disability benefit. The increase shall be based on the benefit determined under division (C)(1) or (2) of this section. The benefit used to calculate any future increases under section 3307.67 of the Revised Code shall be the benefit determined under division (C)(1) or (2) of this section, plus any additional amounts added to the benefit determined under this division that established a new base benefit to the deceased member.

(b) If eligibility for a benefit under division (C)(1) or (2) of this section is not established until more than one year after the member's death, the annual benefit shall be increased by a percentage equal to the total of the percentage increases that would have been made under section 3307.67 of the Revised Code, plus any additional amount that would have been paid under this chapter had the benefit begun in the year in which the member died. However, the benefit used to calculate any future increases under section 3307.67 of the Revised Code shall be the benefit determined under division (C)(1) or (2) of this section, plus any additional amounts added to the benefit determined under this division that established a new base benefit to the deceased member.

(D) If a benefit is calculated pursuant to division (C)(2)(b)(i) of this section, benefits to a surviving spouse shall be paid in the amount determined for the first qualifying survivor in division (C)(2)(b)(i) of this section. 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)(ii) 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 benefits
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2	62.5%
3	50.0%
4	45.45%
5 or more	41.67%

(E) A qualified survivor shall file with the board an application for benefits payable under this section. Payments shall begin on whichever of the following applies:

(1) If application is received not later than one year after the date of the member's death, benefits shall begin on the first day of the month following the date of death.

(2) If application is received later than one year from the date of death, benefits shall begin on the first day of the month immediately following receipt of application by the board.

Benefits to a qualified survivor shall terminate upon a first marriage, abandonment, or adoption. The termination of benefits is effective on the first day of the month following the day the person ceases to be a qualified survivor. 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 September 16, 1998, 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.

Benefits to a qualified child who is at least eighteen years of age but under twenty-two years of age that under a former version of this section never commenced or were terminated due to a lack of attendance at an institution of learning or training and not commenced or resumed before the effective date of this amendment shall commence or resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board, if the application is received on or before the fifteenth day of a month. These benefits terminate on the child attaining twenty-two years of age.

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 3307.57 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 3307.42 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 system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 3307.562 of the Revised Code to a beneficiary as determined by the system, the payment is a full discharge and release of the system from any future claims under this section or section 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.

(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 3307.562 of the Revised Code.