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Sec. 145.45. In lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in section 145.43 or this section 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 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 option 1 in section 145.46 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, 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 on 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 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 retirement benefit as provided in section 145.36 of the Revised Code, certain designated beneficiaries may elect to receive monthly benefits as provided in divisions (B)(1) and (5) of this section.

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

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

(a) 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 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 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

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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 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 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) ~~Except as otherwise provided in this division, benefits~~ 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 THE REMARRIAGE CEASES WITHIN TWO YEARS DUE TO DIVORCE, ANNULMENT, DISSOLUTION, OR DEATH. 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 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.

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 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 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 he elects to receive a survivor benefit. Such benefit shall be exclusively governed by section 145.37 of the Revised Code.

(7) 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 3. The provisions of this act with respect to the receipt of survivor's benefits by surviving spouses whose first remarriage was terminated within two years due to divorce, annulment, dissolution, or death shall apply to any surviving spouse whose benefits were terminated due to remarriage, but such survivor's benefits shall be paid only from the effective date of this act.

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