

MOTHER'S INSURANCE BENEFITS

August 4, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 5411]

The Committee on Finance, to whom was referred the bill (H. R. 5411) to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

The bill is amended to permit any instrumentality of two or more States to obtain social security coverage, under its agreement, for those of its employees who are in policemen's or firemen's positions covered by a retirement system and who desire such coverage.

The title of the bill is amended to read:

An Act to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within one year of such remarriage, and to provide that interstate instrumentalities may secure coverage for policemen and firemen in positions under a retirement system of the instrumentality,

GENERAL STATEMENT OF BILL

H. R. 5411, as amended, would reinstate rights to mother's insurance benefits that were terminated by remarriage in the case of a widow or former wife divorced whose new husband dies before she can qualify as his widow for old-age and survivors insurance purposes. In such cases, the remarriage would be deemed not to have occurred and the widow would regain her rights to mother's benefits based on the earnings record of her former husband.

Under present law, a widow's remarriage permanently terminates her rights to mother's benefits based on her former husband's earnings record and she is not able to qualify for monthly survivors' benefits based on her new husband's earnings record unless the marriage has lasted a full year or the couple has a natural or adopted child. Your committee believes that the requirement is not justified in the case of a woman who already has had survivor benefit rights, who has given up those rights on remarrying, and whose new husband dies within a year.

The gap in protection which occurs under these circumstances can be bridged by providing that the widow will be reentitled to benefits based on the earnings record of her former husband. Such protection against benefit loss has already been provided for aged widows. Under the 1956 social-security amendments, a woman who gives up rights to widow's benefits (payable at and after age 62) by remarrying and whose new husband dies within a year regains her eligibility to receive widow's benefits based on the earnings record of her former husband. Those amendments did not provide similar protection for a mother of young children whose new husband dies within a year—she is left without current rights to monthly benefits on either husband's account. Your committee believes the change provided in the bill is proper since it would give mothers protection equal to that accorded widows under similar circumstances, and so would further the purpose for which mother's benefits are provided—to help make it possible for a mother to remain at home to care for her young children.

Benefits to remarried widows or former wives divorced who become entitled to mother's insurance benefits under the amendment made by the bill would not be payable for any month prior to the latest of (1) the month in which the new husband died, (2) the 12th month before the month in which the widow or former wife divorced files application for mother's insurance benefits under the new provision, or (3) the month following the month in which the bill is enacted.

The favorable report on the bill from the Department of Health, Education, and Welfare follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, April 17, 1958.

HON. HARRY FLOOD BYRD,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of March 3, 1958, for a report on H. R. 5411, a bill to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage.

The bill would reinstate rights to mother's insurance benefits which were terminated by remarriage in the case of a widow or former wife divorced whose new husband dies before she can qualify as his widow for old-age and survivors insurance purposes. In such cases the remarriage would be deemed not to have occurred and the widow would regain her rights to mother's benefits based on the earnings record of her former husband. Under present law, a widow's remarriage permanently terminates her rights to mother's benefits based on her former husband's earnings record and she is not able to qualify for monthly survivors benefits based on her new husband's earnings

record unless the marriage has lasted a full year or the couple has a natural or adopted child.

One way to bridge the gap in protection which occurs under these circumstances is to provide that the widow will again be entitled to benefits based on the earnings record of her former husband. Such protection against benefit loss has already been provided for aged widow's benefits. Under the 1956 social security amendments, a woman who gives up rights to widow's benefits (payable at end after age 62) by remarrying and whose new husband dies within a year regains her eligibility to receive widow's benefits based on the earnings record of her former husband. Those amendments did not provide similar protection for a mother of young children whose second husband dies within a year—she is left without current rights to monthly benefits on either husband's account. The change provided in the bill seems only proper since it would give mothers protection equal to that accorded widows under similar circumstances. The cost of the change proposed would be negligible (less than 0.01 percent of payroll).

We would therefore recommend that the bill be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ELLIOTT L. RICHARDSON,
Acting Secretary.

GENERAL STATEMENT ON AMENDMENTS

The committee has amended the bill to permit interstate instrumentalities to secure old-age and survivors insurance coverage for policemen and firemen who are employed by such instrumentalities and who are in positions covered under a retirement system. Under present law coverage for policemen and firemen in positions covered under a retirement system is available only to 10 named States and the Territory of Hawaii; it is not available to any interstate instrumentalities.

Under this amendment, policemen and firemen who are employees of interstate instrumentalities and who are in positions covered by a retirement system could obtain old-age and survivors insurance coverage through the referendum procedure provided in the present law. Under this procedure coverage of the retirement system group is contingent upon a favorable vote by a majority of the members. Coverage would also be available under the provisions of the present law permitting any interstate instrumentality to divide a retirement system into two parts for the purpose of extending old-age and survivors insurance coverage only to those retirement system members who desire such coverage. Under either approach, policemen or firemen (or both together) could be treated as being in a separate retirement system even though they are, in fact, included in a retirement system with other employees.

The Department of Health, Education, and Welfare favors the adoption of this committee amendment.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 202 OF THE SOCIAL SECURITY ACT

Old-Age and Survivors Insurance Benefit Payments**Old-Age Insurance Benefits**

SEC. 202. (a) * * *

* * * * *

Mother's Insurance Benefits

(g) (1) The widow and every former wife divorced (as defined in section 216 (d)) of an individual who died a fully or currently insured individual after 1939, if such widow or former wife divorced—

(A) has not remarried,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

(F) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death, and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income.

shall be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or former wife divorced becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a former wife divorced, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such former wife divorced is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) *In the case of any widow or former wife divorced of an individual—*

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph

(A) is terminated by his death but she is not his widow as defined in section 216 (c),

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) the month following the month in which this paragraph is enacted.

* * * * *

SECTION 218 OF THE SOCIAL SECURITY ACT

Voluntary Agreements for Coverage of State and Local Employees

Purpose of Agreement

SEC. 218. (a) * * *

* * * * *

Instrumentalities of Two or More States

(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended, then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such

division or part. The position of any employee of any such instrumentality which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement).

(3) *Any agreement with any instrumentality of two or more States entered into pursuant to this Act may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.*

* * * * *

