

## PAYMENT OF PENSION TO WIFE AND CHILDREN WHERE VETERAN HAS DISAPPEARED

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JUNE 8, 1966.—Ordered to be printed

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Mr. LONG of Louisiana, from the Committee on Finance, submitted  
the following

### R E P O R T

[To accompany H.R. 9961]

The Committee on Finance to which was referred the bill (H.R. 9961) to amend chapter 15 of title 38, United States Code, to provide that where a veteran receiving pension under this chapter disappears, the Administrator may pay the pension otherwise payable to the wife and children, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### EXPLANATION OF THE BILL

This bill as passed by the House of Representatives and approved by the Committee on Finance, proposes in the case of the disappearance of any veteran who is receiving a pension under subchapter II of chapter 15 of title 38, United States Code, to grant to the Administrator of Veterans' Affairs authority to pay the veteran's wife and children the pension otherwise payable to the veteran. Such payments could not exceed the amount to which the wife or children would be entitled if the veteran had died of a non-service-connected disability.

Under existing law when a veteran's whereabouts are unknown pension payments are discontinued until a valid current address is received. The resumption of payments are effective on the day following the date of last payment if entitlement is established.

The Veterans' Administration advises that the cost would not be significant.

The report of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,  
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,  
Washington, D.C., May 25, 1966.

HON. RUSSELL B. LONG,  
Chairman, Committee on Finance,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 9961, 89th Congress, as passed by the House of Representatives on May 16, 1966.

The bill proposes, in the case of disappearance of any veteran receiving pension under subchapter II of chapter 15, title 38, United States Code, to grant to the Administrator of Veterans' Affairs discretionary authority to pay to the veteran's wife and children the pension otherwise payable to such veteran. Payments made pursuant to such authority could not exceed the amount to which the wife or child would be entitled if the veteran died of a non-service-connected disability.

Under the mentioned subchapter II, pension based on service is payable to veterans of wars prior to World War I. With respect to veterans of World War I, World War II, and the Korean conflict, the subchapter predicates eligibility for pension on non-service-connected permanent and total disability, and on need. The latter factor is determined by income and net worth limitations.

Presently, when a payee's whereabouts is unknown, pension payments are discontinued until a valid current address is received. Resumption of benefits in such a case is effective the day following the date of last payment, if entitlement is otherwise established.

H.R. 9961 would create authority respecting payment of pension to the veteran's wife and children in disappearance cases similar to that provided by 38 U.S.C. 358 for payment of disability compensation. If the bill were enacted, the statutory provisions would presumably need to be implemented with regulations of the type currently relating to such disability compensation cases. They include a 90-day waiting period, with retroactive benefits to the designated beneficiaries if claim is received within 1 year of the date of last payment to the veteran. Also, payment of pension under the proposal would be discontinued 7 years from the date of disappearance of the veteran in the event of a presumption of death under 38 U.S.C. 108(b); but the widow would then be entitled to death pension in her own right, if otherwise eligible.

Pursuant to the second sentence of the proposed new section 507 of title 38, United States Code, the Administrator could presume that the status of the veteran at the time of disappearance with respect to permanent and total disability, income, and net worth continues unchanged. As noted above, these matters govern eligibility for pension of veterans of World War I and later war periods.

The provision in the third sentence of the proposed new section respecting the amount of benefits "if the veteran died of a non-service-connected disability" would impose a requirement that entitlement of the wife or children of a veteran of World War I, World War II, or the Korean conflict, be determined according to the income limitations of 38 U.S.C. 541 and 542(c) and the net worth limitations of 38 U.S.C.

543. This accords with the basic need philosophy of the pension program for said wars. The amount payable would be the lesser of (a) the amount of death pension determined in the particular case, and (b) the amount the veteran was receiving when he disappeared.

We believe that the need of the wife and children of a disappeared veteran who was receiving pension is no less deserving of assistance than that of a family of a disappeared veteran who was receiving compensation, nor that of the family of an imprisoned veteran to which pension payments are made under 38 U.S.C. 505. Actually, owing to the income and net worth requirements which must be met in the case of the family of a veteran of World War I, World War II, or the Korean conflict, the need can be greater than that of some families of service-connected disabled veterans to whom benefits are paid without such conditions.

Sufficient data are not available on which to base an estimate of the cost of the bill if enacted. However, because of the limited number of cases involved, it is believed that the cost would not be significant.

In view of the reasonableness of the proposal and the desirability of equality of treatment, I recommend favorable consideration of H.R. 9961.

Advice was received from the Bureau of the Budget with respect to a report on this bill to the House Committee on Veterans' Affairs, suggesting amendments which have been made, that there was no objection to the presentation of the report from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

#### 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):

#### SUBCHAPTER I OF CHAPTER 15 OF TITLE 38, UNITED STATES CODE

#### CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

Sec.

##### SUBCHAPTER I—GENERAL

- 501. Definitions.
- 502. Determinations with respect to disability.
- 503. Determinations with respect to annual income.
- 504. Persons heretofore having a pensionable status.
- 505. Payment of pension during confinement in penal institutions.
- 506. Resource reports and overpayment adjustments.
- 507. *Disappearance.*

##### SUBCHAPTER II—VETERANS' PENSIONS

##### Service Pension

- 510. Confederate forces veterans.
- 511. Indian War veterans.
- 512. Spanish-American War veterans.

## 4 PENSION TO WIFE WHERE VETERAN HAS DISAPPEARED

### Non-Service-Connected Disability Pension

Sec.

- 521. Veterans of World War I, World War II, or the Korean conflict.
- 522. Net worth limitation.
- 523. Combination of ratings.

### SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN

#### Wars Before World War I

- 531. Widows of Mexican War veterans.
- 532. Widows of Civil War veterans.
- 533. Children of Civil War veterans.
- 534. Widows of Indian War veterans.
- 535. Children of Indian War veterans.
- 536. Widows of Spanish-American War veterans.
- 537. Children of Spanish-American War veterans.

#### World War I, World War II, and the Korean Conflict

- 541. Widows of World War I, World War II, or Korean conflict veterans.
- 542. Children of World War I, World War II, or Korean conflict veterans.
- 543. Net worth limitation.

### SUBCHAPTER IV—ARMY, NAVY, AIR FORCE, AND COAST GUARD MEDAL OF HONOR ROLL

- 560. Medal of honor roll; persons eligible.
- 561. Certificate.
- 562. Special provisions relating to pension.

### Subchapter I—General

#### § 501. Definitions.

For the purposes of this chapter—

(1) The term "Indian Wars" means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term "World War I" includes, in the case of any veteran, any period of service performed by him after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term "Civil War veteran" includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term "active military or naval service" includes active service in those forces.

#### § 502. Determinations with respect to disability.

(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if he is suffering from—

(1) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the disabled person; or

(2) any disease or disorder determined by the Administrator to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.

(b) For the purposes of this chapter, a person shall be considered to be in need of regular aid and attendance if he is helpless or blind or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(c) For the purposes of this chapter, the requirement of "permanently housebound" will be considered to have met when the veteran is substantially confined to his house (ward or clinical areas, if institutionalized) or immediate premises due to a disability or disabilities which it is reasonably certain will remain throughout his lifetime.

**§ 503. Determinations with respect to annual income.**

In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except--

- (1) payments of the six-months' death gratuity;
- (2) donations from public or private relief or welfare organizations;
- (3) payments under this chapter, and chapters 11 and 13 (except section 412(a)) of this title;
- (4) payments under policies of United States Government life insurance or National Service Life Insurance, and payments of servicemen's indemnity;
- (5) lump sum death payments under subchapter II of chapter 7 of title 42;
- (6) 10 per centum of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;
- (7) amounts equal to amounts paid by a widow or child of a deceased veteran for--
  - (A) his just debts,
  - (B) the expenses of his last illness, and
  - (C) the expenses of his burial to the extent such expenses are not reimbursed under chapter 23 of this title;
- (8) proceeds of fire insurance policies;
- (9) amounts equal to amounts paid by a veteran for the last illness and burial of his deceased spouse or child;
- (10) profit realized from the disposition of real or personal property other than in the course of a business;
- (11) payments received for discharge of jury duty or obligatory civic duties;
- (12) payments of educational assistance allowance or special training allowance under chapter 35 of this title;
- (13) payments of bonus or similar cash gratuity by any State based on service in the Armed Forces.

**§ 504. Persons heretofore having a pensionable status.**

The pension benefits of subchapters II and III of this chapter shall, notwithstanding the service requirements of such subchapters, be granted to persons heretofore recognized by law as having a pensionable status.

**§ 505. Payment of pension during confinement in penal institutions.**

(a) No pension under public or private laws administered by the Veterans' Administration shall be paid to or for an individual who has been imprisoned in a Federal, State, or local penal institution

as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after his imprisonment begins and ending when his imprisonment ends.

(b) Where any veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may apportion and pay to his wife or children the pension which such veteran would receive for that period but for this section.

(c) Where any widow or child of a veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may (1) if the widow is so disqualified, pay to the child, or children, the pension which would be payable if there were no such widow or (2) if a child is so disqualified, pay to the widow or other children, as applicable, the pension which would be payable if there were no such child.

### § 506. Resource reports and overpayment adjustments.

(a) As a condition of granting or continuing pension under sections 521, 541, or 542 of this title, the Administrator—

(1) may require from any person applying for, or in receipt of, pension thereunder such information, proofs, or evidence as he desires in order to determine the annual income and the corpus of the estate of such person;

(2) shall require that any such person, other than a child, file each year with the Veterans' Administration (on the form prescribed by him) a report showing the total income which he received during the preceding year, the corpus of his estate at the end of that year, and his estimate for the then current year of the total income he expects to receive and of any expected increase in the corpus of his estate; and

(3) shall require that any such person promptly file a revised report whenever there is a material change in his estimated annual income or a material change in his estimate of the corpus of his estate.

(b) If there is an overpayment of pension under section 521, 541, or 542 of this title, the amount thereof shall be deducted (unless waived) from any future payments made thereunder to the person concerned.

### § 507. Disappearance.

*Where a veteran receiving pension under subchapter II of this chapter disappears, the Administrator, in his discretion, may pay the pension otherwise payable to his wife and children. In applying the provisions of this section, the Administrator may presume, without reports pursuant to section 506(a) of this title, that the status of the veteran at the time of disappearance, with respect to permanent and total disability, income, and net worth, continues unchanged. Payments made to a wife or child under this section shall not exceed the amount to which each would be entitled if the veteran died of a non-service-connected disability.*