

BARRING DUPLICATE BENEFIT PAYMENTS TO CHILDREN OF VETERANS

MAY 19, 1960.—Ordered to be printed

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

REPORT

[To accompany H.R. 9788]

The Committee on Finance, to whom was referred the bill (H.R. 9788) to amend section 3104 of title 38, United States Code, to prohibit the furnishing of benefits under laws administered by the Veterans' Administration to any child on account of the death of more than one parent in the same parental line, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL EXPLANATION

This bill prohibits duplicate benefits, such as compensation, dependency, and indemnity compensation, or pension, to a child on account of the death of more than one parent in the same parental line. It is not intended to affect insurance benefits which are matters of contract.

The following excerpt from the report of the House Committee on Veterans' Affairs further explains the purpose of this legislation:

This situation was called to the attention of the committee by a conscientious attorney in one of the field offices of the Veterans' Administration who indicated that, while the number was not large, the following type of situation was developing:

A World War II widow with three children was receiving compensation for the death of her World War II husband and so were the children of this marriage. The widow remarried the second husband was a veteran who, in due time, died. Upon his death the children were receiving benefits from both husbands or fathers, despite the fact that only one husband could be the father of the children. The most

extreme example involved one widow who had been married three times. All husbands were veterans and the children were drawing three allowances, based on the deaths of three individuals. Obviously the Congress never intended such a result.

The committee can see no basis or merit for continuation of such a situation and thus proposes the enactment of this legislation to prevent abuses of this type. The bill is merely a logical extension of a similar principle first enacted in Public Law 881, 84th Congress—the Survivor Benefits Act.

The bill is prospective and not retroactive in its application.

While no definite amount of saving can be estimated, obviously there would be some saving by this legislation.

The Veterans' Administration recommends favorable consideration of H.R. 9788.

The favorable report of the Veterans' Administration follows:

MAY 17, 1960.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: The following comments are submitted on H.R. 9788, 86th Congress, as requested.

The bill would prohibit the payment or furnishing of benefits other than insurance under laws administered by the Veterans' Administration to or on account of any child by reason of the death of more than one parent in the same parental line. However, it would permit a child to elect one or more times to receive benefits by reason of the death of any one parent in the same parental line, thus allowing the child to receive the greater of two or more benefits. The bill would apply only to cases where the death of a parent occurs after the date of enactment thereof.

Section 3104(b)(2) of title 38, United States Code, provides that a child who receives dependency and indemnity compensation or death compensation based on the service-connected death of one parent may not receive dependency and indemnity compensation concurrently based on the death of another parent in the same parental line. However, a child may receive dependency and indemnity compensation based on the death of one parent concurrently with death pension based on the non-service-connected death of another parent in the same parental line. Likewise, a child may receive, concurrently, death pension based on the death of two or more parents in the same parental line.

A child who had two or more parents in the same parental line received his support and maintenance from each such parent during different periods (e.g., a natural father who was succeeded by a step-father or an adoptive father). Support was not furnished the child by both parents simultaneously, but during succeeding periods. Death pension and death compensation benefits are intended as a substitute in part for the loss of support sustained by the child through the death of a parent. Inasmuch as only one parent in the same parental line would have furnished support during any given period, it is logical that concurrent awards of death benefits should not be made to the child.

H.R. 9788 would result in savings to the Government. There are no data upon which to base an estimate of such savings, but it is believed that they would not be significant.

This bill is a logical and reasonable extension of the principle now contained in 38 U.S.C. 3104(b)(2), discussed above. Accordingly, we recommend that it be given favorable consideration by your committee.

The Bureau of the Budget advises that there is no objection to the submission of this report to the committee.

Sincerely,

SUMNER G. WHITTIER, *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):

SECTION 3104, TITLE 38, UNITED STATES CODE

§ 3104. PROHIBITION AGAINST DUPLICATION OF BENEFITS

(a) Except to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall be made concurrently to any person based on his own service.

(b)(1) Except as provided in paragraph (2), the receipt of pension, compensation, or dependency and indemnity compensation by a widow, child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of his own service, shall not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person.

[(2) If a child receives or there is paid by the Veterans' Administration on account of a child dependency and indemnity compensation, or death compensation, by reason of the death of a parent, dependency and indemnity compensation by reason of the death of another parent in the same parental line may not be paid to or on account of such child.]

(2) *Benefits other than insurance under laws administered by the Veterans' Administration may not be paid or furnished to or on account of any child by reason of the death of more than one parent in the same parental line; however, the child may elect one or more times to receive benefits by reason of the death of any one of such parents.*

(c) Pension, compensation, or retirement pay on account of his own service shall not be paid to any person for any period for which he receives active service pay.

