

INCREASING DEPENDENCY AND INDEMNITY COMPENSATION FOR CERTAIN WIDOWS

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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. 3177]

The Committee on Finance, to which was referred the bill (H.R. 3177) to amend title 38, United States Code, to increase dependency and indemnity compensation in certain cases, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

EXPLANATION OF THE BILL

The bill, as passed by the House of Representatives and approved by the Committee on Finance, would authorize payment of dependency and indemnity compensation to a widow with children in an amount equal to any greater amount of death pension which would be payable to the children had the veteran's death occurred under circumstances authorizing payment of pension and if the widow were not entitled thereto.

Under the provisions of existing law (38 U.S.C. 412(b)), where the amount of dependency and indemnity compensation payable to a widow with children is less than the amount of death pension which would be payable to her had the veteran's death occurred under circumstances authorizing payment of death pension, she may be paid dependency and indemnity compensation in an amount equal to the greater pension rate. If, however, the widow would be ineligible for pension by reason of excessive income or due to corpus of estate, the greater payment based on such pension rate is not paid.

In certain such cases wherein a widow's income or corpus is excessive, this proposal would afford a new basis for payment of a greater amount of dependency and indemnity compensation. It could affect

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only cases of a widow with eight or more children. The regular dependency and indemnity compensation rate for a widow with eight children might be only \$131 per month. Aggregate death pension payable to eight eligible children where there is no eligible widow is \$143 per month. Under this bill a widow could receive such greater amount as dependency and indemnity compensation. H.R. 3177 is an equitable extension of the principle contained in existing section 38 U.S.C. 412(b). That principle is that service-connected death benefits for a widow should not be less generous than those payable for deaths not due to service.

The bill is recommended by the Veterans' Administration which has advised that its cost would be insignificant.

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. 3177, 89th Congress.

The purpose of the proposal is to increase dependency and indemnity compensation in certain cases. It would authorize payment of dependency and indemnity compensation to a widow with children in an amount equal to any greater amount of death pension which would be payable to the children, had the veteran's death occurred under circumstances authorizing payment of pension and if the widow were not entitled thereto.

Under the provisions of chapter 13, title 38, United States Code, the widow of a veteran whose death resulted from service-connected causes usually is not paid an increased rate of dependency and indemnity compensation on account of the veteran's children. The one exception, provided by 38 U.S.C. 411(b), is the case of a widow with two or more children below age 18 who is receiving less than a particular minimum social security and railroad retirement benefit.

However, the rate of death pension payable to an eligible widow of a veteran whose death was nonservice connected is increased for each child. The difference in payment standards in the two programs has, in the past, resulted in situations wherein a widow with children of a veteran whose death was service connected has received a lesser monetary benefit than a widow with the same number of children whose veteran husband died of a non-service-connected cause.

Equal payments have been effectuated in some such cases under 38 U.S.C. 412(b), as added by section 1(a) of Public Law 87-268, effective October 1, 1961, which reads:

"In any case where the amount of dependency and indemnity compensation payable under this chapter is less than the amount of pension which would be payable under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension,

the Administrator shall pay dependency and indemnity compensation in an amount equal to such amount of pension.”

Under the provisions of that existing section, for example, a widow with eight children who would otherwise receive the minimum dependency and indemnity compensation rate in the amount of \$131, on account of the service-connected death of the veteran, if otherwise eligible for death pension except for the circumstances of the veteran's death, is paid dependency and indemnity compensation of as much as \$185 monthly. The greater figure represents the amount of pension which would be payable to a widow with eight children, in a non-service-connected case, if her income were not more than \$1,000 per year and her corpus of estate not a bar. A lesser amount of \$169 per month would be payable in such a case under the present 38 U.S.C. 412(b) if the widow's income were to be in excess of \$1,000 but not more than \$2,000; and \$148 per month on an income of \$2,001 to \$3,000.

Where the income of a widow is in excess of \$3,000, or her corpus of estate would be considered a bar to benefits in a non-service-connected case, no amount is payable to her under the cited section 412(b). Dependency and indemnity compensation is payable to the widow in such a case only under 38 U.S.C. 411, with a minimum rate of \$131 per month.

H.R. 3177 would amend 38 U.S.C. 412(b) to expand the existing authority for payment of dependency and indemnity compensation to a widow with children measured according to pension rates. The proposal would effectuate no change in the present basis for payment of a greater benefit in a situation wherein the widow's income and corpus of estate are within limitations—such as the example of a widow with eight children discussed above. However, in cases of inapplicability of the current section 412(b) because of excessive income or due to corpus of estate, the measure would afford a new basis for payment of a greater amount of dependency and indemnity compensation to widows with children.

∨ In such an instance, the bill would authorize payment to the widow equal to the amount of death pension which would have been payable to the children, if (a) the veteran's death had not been service connected, and (b) the widow were not entitled to benefits. In determining what would have been payable to the children, of course, the usual conditions applicable to such cases, including the \$1,800 limitation on unearned income of a child, would govern.

The bill could affect only cases of a widow with eight or more children. The aggregate amount of death pension payable to eight eligible children is \$143 per month. It follows that if the bill were to be enacted, there could be payment of dependency and indemnity compensation of \$143 per month to a widow with eight children in a case wherein the regular dependency and indemnity compensation benefit might be only \$131 per month. If there were more than eight children, \$15 per month would be added, under the bill, for each such additional child.

The language of the present 38 U.S.C. 412(b) does not specify applicability only to widows. However, inasmuch as the dependency

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and indemnity compensation rates for children without a widow are now higher than any pension rate relating to them, the effect of the current provision is restricted to widows with children. Consequently, the limiting language of the proposed revision of section 412(b)—“a widow who has children”—cannot have an adverse effect on anyone.

We have insufficient data on which to satisfactorily estimate the probable cost of the bill. However, it is believed that the number of persons who could benefit by enactment—certain widows with eight or more children—is small, and that additional costs, therefore, would not be significant.

38 U.S.C. 412(b) was enacted on the premise that benefits for a widow of a veteran whose death was due to service should not be less generous than benefits based on a non-service-connected death. H.R. 3177 is believed consonant with that principle, and would effectuate a reasonable extension of the current provisions of section 412(b). Consequently, I recommend favorable consideration of the bill by your committee.

The Bureau of the Budget advised that there was no objection to the presentation of an identical report on H.R. 3177 to the House Committee on Veterans' Affairs 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 which no change is proposed is shown in roman):

SECTION 412, TITLE 38, UNITED STATES CODE

§ 412. Benefits in certain cases of in-service or service-connected deaths

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 414 of title 42) at the time of his death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 402 of title 42 on the basis of his wages and self-employment income but who would, upon application therefor, be entitled to such benefits if he had been fully and currently insured at the time of his death;

the Administrator shall pay for such month benefits under this sec-

tion to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under subchapter II of chapter 7 of title 42, if such veteran had been both fully and currently insured at the time of his death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Administrator.

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter *to a widow who has children* is less than the amount of pension which would be payable to (1) *such widow*, or (2) *such children if the widow were not entitled* under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Administrator shall pay dependency and indemnity compensation *to such widow* in an amount equal to such amount of pension.

