

Calendar No. 466

82D CONGRESS }
1st Session }

SENATE

} REPORT
No. 491

REMOVAL OF THE DEPENDENCY REQUIREMENT IN CONNECTION WITH CERTAIN WIDOWS' PENSIONS

JUNE 25 (legislative day, JUNE 21), 1951.—Ordered to be printed

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

REPORT

[To accompany H. R. 3549]

The Committee on Finance, to whom was referred the bill (H. R. 3549) to modify eligibility requirements for payment of pensions to certain widows of veterans of the Civil War, Indian wars, and Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act the Committee on Finance accepts the report of the Committee on Veterans' Affairs, which is as follows:

EXPLANATION OF THE BILL

This bill is concerned with widows of veterans of the Civil War, Indian wars, and Spanish-American War (including the Boxer Rebellion and Philippine Insurrection) who married the veterans concerned subsequent to varying marriage-delimiting dates prescribed by law for these wars. The bill removes the requirement now in law that such widows must be dependent in order to obtain pensions. The basic test of dependency is whether a widow has income sufficient to provide reasonable support. In determining dependency, certain income is disregarded such as money received from charitable sources. Dependency is generally found to exist in any case in which a widow has less than \$80-a-month income, and this amount is further increased by \$35 for each member of the family dependent upon her. These amounts are only guides and would not be controlling in any case, particularly one in which large medical expenses are present.

The present bill would continue the requirement, however, that the widow must be unmarried, at least 60 years of age, and have married the veteran 10 or more years prior to his death and lived with him continuously from date of marriage to his death. The proposal does not in any way increase the present rates of pensions applicable to widows of the Civil War, the Indian wars, and the war with Spain. The widows' monthly pension rates for these three wars are set forth below:

	Civil War	Indian wars	Spanish-American War
Widow.....	\$36.....	\$36.....	\$48.....
Widow, age 70.....	\$48.....	\$48.....
Widow who was wife during service.....	\$60.....	\$60.....	\$60.....
Widow, 1 child.....	\$43.20; \$56.20; \$67.20.....	\$43.20; \$55.20; \$67.20.....	\$55.20; \$67.20.....
Each additional child.....	\$7.20.....	\$7.20.....	\$7.20.....

Widows who become eligible under this legislation would have to file a claim with the Veterans' Administration even though they had previously filed for a widow's pension and had had the claim rejected because of failure to prove dependency. In other words, the Veterans' Administration will not be required to search its records to determine if previous claims can be paid under this proposal.

No fixed estimate of cost can be given on this proposal, but the Veterans' Administration advises that it is believed that the first year's cost would be relatively insignificant. It should also be noted that, by eliminating the need for determining dependency, enactment of the bill would simplify the adjudication of the cases in question and would reduce the time necessary therefor.

Hearings were conducted on H. R. 2993, Eighty-second Congress, which related to the dependency requirement for the mentioned Spanish-American War widows. As a result, the bill (H. R. 3549) herewith reported was introduced. For the information of the Members of the House, the report of the Veterans' Administration on H. R. 2993 follows:

VETERANS' ADMINISTRATION,
Washington 25, D. C., April 4, 1951.

HON. JOHN E. RANKIN,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.

DEAR MR. RANKIN: This is with reference to your letter of March 1, 1951, requesting a report by the Veterans' Administration, relative to H. R. 2993, Eighty-second Congress, a bill to modify eligibility requirements for payment of pension to certain widows of veterans of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection.

The bill proposes to substitute income limitations for dependency as an eligibility requirement for the payment of non-service-connected death pension to certain widows of veterans of the Spanish-American War, the Boxer Rebellion, and the Philippine Insurrection, pursuant to the act of June 24, 1948 (62 Stat. 645; 38 U. S. C. 364 (i)).

Pursuant to section 2 of the act of May 1, 1926 (44 Stat. 382), as reenacted by the act of August 13, 1935 (49 Stat. 614), and as amended (38 U. S. C. 364 (a)), non-service-connected death pension is payable to otherwise eligible widows, former widows, and children of veterans of the Spanish-American War, Philippine Insurrection, or Boxer Rebellion, who served for 90 days or more, and were honorably discharged from service, or were discharged for, or died in service of, a disability contracted in service in line of duty, within certain specified periods. To be entitled to such pension, the widow, among other things, must have been married to the veteran prior to January 1, 1938. Current monthly rates of pension payable to such widows, former widows, and children are as follows:

Widows and former widows.....	\$48. 00
Wife during service.....	60. 00
Additional for each child.....	7. 20
No widow—	
1 child (to age 16).....	55. 20
each additional child (to age 16), total equally divided.....	7. 20
1 child (age 16 or over).....	25. 92
2 children (age 16 or over).....	38. 88
3 children (age 16 or over).....	51. 84
each additional child (age 16 or over), total equally divided.....	5. 76

The act of June 24, 1948, supra, liberalized the conditions of entitlement to such non-service-connected pension by providing an alternative marriage date applicable to those widows who married the veterans subsequent to December 31, 1937. Section 1 of that act provides that the unremarried widow of a veteran of the Spanish-American War, Boxer Rebellion, and Philippine Insurrection, who is barred from the receipt of pension because her marriage to the veteran occurred subsequent to December 31, 1937, but who is otherwise entitled to pension under the act of May 1, 1926, as reenacted and amended, shall be entitled to pension if she is dependent, has attained the age of 60 years, and married the veteran 10 or more years prior to his death and lived with him continuously from the date of marriage to the date of his death except where there was a separation which was due to misconduct of, or procured by, the veteran without the fault of the widow. H. R. 2993, if enacted, would amend section 1 of that act so as to substitute the annual income limitations provided in subsection 1 (c) of the act of June 28, 1934 (53 Stat. 1068), as now or hereafter amended, for the

present dependency requirement. That subsection provides that the payment of non-service-connected death pension to widows and children of veterans of World Wars I and II is subject to an annual income limitation of \$1,000 with respect to any widow without child, or to a child, and \$2,500 with respect to a widow with a child or children.

As indicated, in order to be entitled to pension under the act of June 24, 1948, the widows must be in "dependent" circumstances. The regulations of the Veterans' Administration (R-1057) set forth the conditions presently employed for determining dependency under laws administered by the Veterans' Administration. Under that paragraph, determinations as to the dependency of a widow depend upon whether there is an income sufficient to provide for her reasonable support. This is not limited to bare necessities, and administrative determinations are guided by the facts and circumstances of the individual case. Consideration is given the obligations of the widow to provide maintenance for those members of her family whom she is under a moral or legal obligation to support. In determining dependency, certain items of income are disregarded, including pension or compensation under laws administered by the Veterans' Administration and donations or assistance from charitable sources.

The absence of any fixed income criteria in the present law defining dependency allows considerable latitude in examining the individual case. Dependency is held to exist when the monthly income from sources proper to consider, does not exceed \$80 in the case of a widow alone. In addition, \$35 is added for each additional member of the family whose support is to be considered. These amounts are not controlling in any case but have been established for use only as prima facie evidence. These amounts are not applicable to those residing in a foreign country because the standards of living in some foreign countries are appreciably lower than in the United States. The bill would establish a fixed annual income criteria in dollar amounts for determining the dependency of widows, regardless of where they are situated.

While the apparent purpose of the bill is to liberalize the conditions under which pension may be paid to a widow who is entitled to such benefits by reason of the act of June 24, 1948, it does not have the flexibility provided under existing regulations and could be more restrictive. It may be noted that under existing law and regulations, benefits are payable to a widow who is otherwise entitled from the date on which dependency arises, whereas under H. R. 2993, if enacted, no payments could be made for any portion of a calendar year during which year the widow's income exceeds the applicable statutory limitation. Further, the bill would require an annual redetermination of the dependency of the widow, which is not required under existing law. Pension benefits may be payable under existing regulations to a widow without child who has an income in excess of \$1,000 or to a widow with child or children, with an annual income in excess of \$2,500, if there are unusual expenses, such as medical or hospital expenses, which make such income inadequate for reasonable support and maintenance. H. R. 2993, on the other hand, would preclude payment in such cases in view of the fixed-income limitations.

In any event, the matter of establishing the basis upon which non-service-connected death pension shall be paid involves a question of broad public policy and it is the view of the Veterans' Administration that any revision of that policy is primarily for the consideration of and determination by the Congress.

Available statistics indicate that through fiscal year 1950 a comparatively small number of widows became eligible to pension under the provisions of the act of June 24, 1948, supra, and that very few were denied benefits because of failure to establish dependency. The latest available income data indicate further that the great majority of females 60 years of age and over do not have monthly incomes in excess of \$80 which, as previously pointed out, is the amount used as a prima facie guide in determining dependency of a widow without a child under the cited act. The number of widows 60 years of age and over who have minor children and might benefit by the proposed \$2,500 limitation is considered to be comparatively small. It is believed therefore that the monetary effect of this bill, if enacted, would be negligible for fiscal year 1952.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

CARL R. GRAY, Jr., *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 italics; existing law in which no change is proposed is shown in roman):

Section 1 of the act of December 8, 1944 (38 U. S. C. 293):

That the [dependent] unmarried widow of a Civil War veteran who is barred from the receipt of pension because her marriage to the veteran occurred subsequent to June 26, 1905, but who is otherwise entitled to such pension either under the Act of May 1, 1920 (41 Stat. 585), or under the Act of June 9, 1930 (46 Stat. 528), shall be entitled to pension in her own right under said Acts at the rates and under the conditions specified therein and to the additional pension provided for minor and helpless children in the Act of May 1, 1920, provided she married the veteran ten or more years prior to his death and lived with him continuously from the date of marriage to the date of his death except where there was a separation which was due to misconduct of or procured by the veteran without the fault of the widow: *Provided*, That if pension has been granted to an insane, idiotic, or otherwise helpless child of the veteran or to a child or children of the veteran under sixteen years of age, the widow shall not be entitled to the pension authorized in this Act until the pension to the child or children terminates, unless such child or children be a member or members of her family and cared for by her; and when these conditions are fulfilled and the pension is granted to the widow, payment of pension to such child or children shall cease; except that in the event the amount being paid to such child or children is less than the amount authorized to the widow by this Act, then the difference between said amounts will be paid to the widow: *Provided further*, That no pension shall be payable under this Act to a widow under sixty years of age.

Section 6 of act of March 3, 1927 (38 U. S. C. 381e):

SEC. 6. The [dependent] unmarried widow of any person who rendered service as described in section 1 of this Act, who is barred from receiving pension because her marriage to the veteran occurred subsequent to March 3, 1917, but who is otherwise entitled to pension under section 2 of this Act, shall be entitled to pension in her own right and to the additional pension provided for minor and helpless children in said section 2: *Provided*, That she has attained the age of sixty years, was married to the veteran ten or more years prior to his death, and lived with him continuously from the date of marriage to the date of his death, except where there was a separation which was due to or procured by the veteran without the fault of the widow: *Provided further*, That if pension has been granted to an insane, idiotic, or otherwise helpless child of the veteran or to a child or children of the veteran under sixteen years of age, the widow shall not be entitled to the pension authorized by this section until the pension to the child or children terminates, unless such child or children be a member or members of her family and cared for by her; and when these conditions are fulfilled and the pension is granted to the widow, payment of pension to such child or children shall cease; except that in the event the amount being paid to such child or children is less than the amount authorized to the widow by this section, then the difference between said amounts shall be paid to the widow: *Provided further*, That any widow otherwise entitled to pension under this Act who has attained or who shall hereafter attain the age of seventy years shall be entitled to and paid a pension at the rate of \$40 per month: *Provided further*, That the widow otherwise entitled under this Act who was the wife of the veteran during the period of his service in an Indian war or campaign shall be entitled to and shall be paid a pension at the rate of \$50 per month. Payment of pension or increase of pension at the rates provided in this section shall commence as provided in section 4 of this Act. Pension and increase of pension under this section shall not be paid to the widow who has remarried either once or more than once since the death of the veteran, and upon remarriage of such a widow her pension shall be terminated.

NOTE.—The rates of pension set forth herein were increased 20 per centum by the act of January 19, 1946 (38 U. S. C. 374a).

Section 1 of the act of June 24, 1948 (38 U. S. C. 364i):

That the [dependent] unremarried widow of a veteran of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, who is barred from the receipt of pension because her marriage to the veteran occurred subsequent to December 31, 1937, but who is otherwise entitled to such pension under the Act of May 1, 1926 (44 Stat. 382; 38 U. S. C. 364a), as reenacted by the Act of August 13, 1935 (49 Stat. 614; 38 U. S. C. 368), shall be entitled to pension in her own right under said Act, as amended, under the conditions specified therein (except date of marriage) and at the rate authorized by section 4 of the Act of August 7, 1946 (Public Law 611, Seventh-ninth Congress), as amended by the Act of July 30, 1947 (Public Law 270, Eightieth Congress), and to the additional pension provided for children under the Act of May 1, 1926, as amended, provided she married the veteran 10 or more years prior to his death and lived with him continuously from the date of marriage to the date of his death except where there was a separation which was due to misconduct of or procured by the veteran without the fault of the widow: *Provided*, That if pension has been granted to a child or children of the veteran, the widow shall not be entitled to the pension authorized by this section until the pension to the child or children terminates, unless such child or children be a member or members of her family and cared for by her; and when these conditions are fulfilled and the pension is granted to the widow, payment of pension to such child or children shall cease; except that in the event the amount being paid to such child or children is less than the amount authorized to the widow by this Act, then the difference between said amounts will be paid to the widow: *Provided further*, That no pension shall be payable under this section to a widow under sixty years of age.

