

WIDOW ELIGIBILITY FOR VETERANS' ADMINISTRATION BENEFITS

August 12, 1957.—Ordered to be printed

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

R E P O R T

[To accompany H. R. 3658]

The Committee on Finance, to whom was referred the bill (H. R. 3658) to liberalize certain criteria for determining eligibility of widows for benefits, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

This bill seeks to provide a new eligibility requirement insofar as date of marriage is concerned for the payment of non-service-connected death pension or service-connected death compensation for widows of veterans by requiring the recognition as a widow of an otherwise eligible woman who was married to the veteran for 5 or more years or for any period of time if a child was born of the marriage. This provision in the first section of the bill seeks to make uniform laws on this subject which now vary greatly according to individual wars. The provision is in substantial conformity with subsection 102 (8) of Public Law 881, 84th Congress, which relates to dependency and indemnity compensation payable for service-connected deaths on or after January 1, 1957.

Disparity in the various laws is shown by the fact that in the case of the Indian wars the marriage delimiting date for pension is March 3, 1917. In the case of the Civil War, it is prior to June 27, 1905, for pension. For the Spanish-American War, for pension purposes, the date is prior to January 1, 1938, or for compensation purposes, under Public, No. 2, 73d Congress, prior to September 1, 1922. In World War I cases the widow must have married the veteran prior to December 14, 1944. For World War II, the delimiting date is December 31, 1956, and for widows of veterans of the Korean conflict the date is January 31, 1965. For widows of veterans of World War I or earlier wars, under certain circumstances there is an

alternative requirement of marriage to the veteran for 10 or more years prior to death. In peacetime cases, for compensation purposes under Public, No. 2, marriage to the veteran must occur within 10 years after his separation from service. It requires no elaboration to show that this aspect of the veterans' laws is in need of greater uniformity.

It is the opinion of the committee that the requirements provided in section 1 of this bill are reasonable and will add no great cost to the veterans' benefits.

It is estimated by the Veterans' Administration that a maximum of 12,000 widows of veterans of World War I, prior wars, and peacetime service would become eligible for compensation and pension benefits under section 1 of the bill, during the first year, at an estimated cost for that year of \$6,559,000. There is insufficient data upon which to base an estimate of the additional pension cost in World War II cases. There will be no additional cost for Korean conflict cases until after January 31, 1965.

Section 2 of the bill would modify existing requirements to authorize the recognition of certain purported marriages as valid. Briefly stated, these are marriages which the woman entered into without knowledge of any legal impediment to the marriage, after which she lived with the veteran for 5 or more years immediately before his death. Many cases have been called to the attention of the committee of the hardship which has been worked on individual widows in these cases without any fault on their part.

The Veterans' Administration has recently made a study of this question which clearly shows that the present law produces harsh results.

The Veterans' Administration believes that the cost of this section of the bill would be relatively small and favors the section in principle. Section 3 provides an effective date.

Excerpt from the Veterans' Administration report regarding estimated cost follows:

Concerning the cost of the proposed legislation, based on experience reflected by the number of disallowances made for the reason that marriage occurred after the delimiting date, and assuming that these disallowances include those cases where a child was born of the marriage, regardless of date of marriage, it may be estimated that a maximum of 12,000 widows of veterans of World War I, prior wars, and peacetime service would become eligible for compensation and pension benefits under section 1 of each bill, during the first year. If all such widows applied for and were paid such benefits, the first year's cost of this section of the bills would approximate \$6,559,000. In conformance with Budget Circular No. A-19, it is estimated that the cost of section 1 would increase from approximately 15 to 20 percent each year during the ensuing 4 years. Such cost estimate, although not firm, should nevertheless be of a proper magnitude. There are no data available upon which to base an estimate of the cost of section 2 of each bill, although it is believed it would be negligible.

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, as reported, 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):

PUBLIC LAW 85-56, 85TH CONGRESS

TABLE OF CONTENTS

Section 103. **[Determination of date of marriage]** *Special cases involving claims of widows.*

[SEC. 103. Where a widow has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to marriage has been met.**]**

SPECIAL CASES INVOLVING CLAIMS OF WIDOWS

SEC. 103. (a) Whenever, in the consideration of any claim filed by a woman as the widow of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that she, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with him for five or more years immediately before his death, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this section.

(b) Where a widow has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

SPECIAL PROVISIONS RELATING TO WIDOWS

SEC. 302. No compensation shall be paid to the widow of a veteran under this title unless she was married to him—

(1) before the expiration of ten years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) **[for ten or more years]** *for five or more years; or*

(3) *for any period of time if a child was born of the marriage.*

The foregoing shall not be applicable to any widow who, with respect to date of marriage, could have qualified as a widow for death compensation under any law administered by the Veterans' Administration in effect on the day before the effective date of this Act.

WIDOWS OF CIVIL WAR VETERANS

SEC. 432. (a) The Administrator shall pay to the widow of each Civil War veteran who met the service requirements of this section a pension at the following monthly rate:

(1) \$40.64 if she is below seventy years of age; or
 (2) \$54.18 if she is seventy years of age or older;
 unless she was the wife of the veteran during his service in the Civil War, in which case the monthly rate shall be \$67.73.

(b) If there is a child of the veteran, the rate of pension paid to the widow under subsection (a) shall be increased by \$8.13 per month for each such child.

(c) A veteran met the service requirements of this section if he served for ninety days or more in the active military or naval service during the Civil War, as heretofore defined under public laws administered by the Veterans' Administration, or if he was discharged or released from such service upon a surgeon's certificate of disability.

(d) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

- (1) before June 27, 1905; or
- (2) **[for ten or more years.]** *for five or more years; or (3) for any period of time if a child was born of the marriage.*

WIDOWS OF INDIAN WAR VETERANS

SEC. 434. (a) The Administrator shall pay to the widow of each Indian War veteran who met the service requirements of section 411 a pension at the following monthly rate:

(1) \$40.64 if she is below seventy years of age; or
 (2) \$54.18 if she is seventy years of age or older;
 unless she was the wife of the veteran during his service in one of the Indian Wars, in which case the monthly rate shall be \$67.73.

(b) If there is a child of the veteran, the rate of pension paid to the widow under subsection (a) shall be increased by \$8.13 per month for each such child.

(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

- (1) before March 4, 1917; or
- (2) **[for ten or more years.]** *for five or more years; or*
- (3) *for any period of time if a child was born of the marriage.*

WIDOWS OF SPANISH-AMERICAN WAR VETERANS

SEC. 436. (a) The Administrator shall pay to the widow of each Spanish-American War veteran who met the service requirements of section 412 (a) a pension at the monthly rate of \$54.18, unless she was the wife of the veteran during his service in the Spanish-American War, in which case the monthly rate shall be \$67.73.

(b) If there is a child of the veteran, the rate of pension paid to the widow under subsection (a) shall be increased by \$8.13 per month for each such child.

(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

- (1) before January 1, 1938; or
- (2) **[for ten or more years.]** *for five or more years; or*
- (3) *for any period of time if a child was born of the marriage.*

SUBPART II—WORLD WAR I, WORLD WAR II, AND THE KOREAN CONFLICT
WIDOWS OF WORLD WAR I VETERANS

SEC. 441. (a) The Administrator shall pay to the widow of each veteran of World War I who met the service requirements of section 421, or who at the time of his death was receiving (or entitled to receive) compensation or retirement pay based upon a service-connected disability, a pension at the following monthly rate:

- (1) Widow, no child, \$50.40;
- (2) Widow, one child, \$63, with \$7.56 for each additional child.

(b) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

- (1) before December 14, 1944; or
- (2) **[for ten or more years.]** *for five or more years; or*
- (3) *for any period of time if a child was born of the marriage.*

WIDOWS OF WORLD WAR II OR KOREAN CONFLICT VETERANS

SEC. 443. (a) The Administrator shall pay to the widow of each veteran of World War II or of the Korean conflict—

(1) who met the service requirements of section 421, and at the time of his death had a service-connected disability for which compensation would have been payable if 10 per centum or more in degree disabling; or

(2) who, at the time of his death, was receiving (or entitled to receive) compensation or retirement pay based upon a service-connected disability;

a pension at the rate prescribed by section 441 for the widow of a veteran of World War I.

(b) **[**(1) No pension shall be paid to a widow of a veteran of World War II under this section unless she was married to him before January 1, 1957.

[(2) No pension shall be paid to a widow of a veteran of the Korean conflict under this section unless she was married to him before February 1, 1965.**]** *No pension shall be paid to a widow of a veteran under this section unless she was married to him—*

(1) before January 1, 1957, in the case of a widow of a veteran of World War II, or before February 1, 1965, in the case of a widow of a veteran of the Korean conflict; or

(2) for five or more years; or

(3) for any period of time if a child was born of the marriage.

