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S. 1874	Nov. 19, 1981	S13782-83

Action:

Introduced by Mr. Thurmond

General Accounting Office references, p. S13783(2)

By Mr. THURMOND:

S. 1874. A bill to amend section 376 of title 28, United States Code, in order to reform and improve the existing program for annuities for survivors of Federal justices, and judges; to the Committee on the Judiciary.

JUDICIAL SURVIVORS ANNUITIES REFORM ACT OF 1981

Mr. THURMOND. Mr. President, today I offer legislation entitled the Ju-

dicial Suryivors Annuities Reform Act of 1981. This bill is intended to amend section 376 of title 28 of the United States Code to more equitably adjust provisions dealing with annuities for the families of deceased judges. The thrust of this legislation is to update those sections which affect children and to upgrade spousal annuities by increasing the "ceiling" amount and creating a "floor" amount.

At present, the annuities for children of deceased judges are determined by statutorily designated dollar figures. Needless to say, as time passes, fixed statutory figures become increasingly inadequate. In response to the situation, this measure would eliminate these dollar figures and would substitute instead a formula based upon a percentage of the salary of the judicial officer for a 3-year-high period.

This proposal will leave intact the two "classes" of children presently found in the law—a class of those in which the spouse is receiving an annuity and a class of those in which the spouse is not receiving an annuity or is deceased. Moreover, the age limitations for children would remain the same—age 18 for unmarried children except for those unmarried children between ages 18 and 22 who are full-time students.

However, by the provisions of this bill, the amounts available for children's annuities would increase depending upon the salary of the particular judicial officer. For example, under the present law, if there are three surviving children in the first class—an existing spousal annuity—each child would receive a monthly grant of $129. Following the same example, each of the three children in the second class—no spousal annuity—would receive $155 each month.

Under the new proposal, the annuity amounts would vary according to the judicial salary and the number of children. The three surviving children of a district judge in either class would each receive annuities equalling $390 per month.

The seond major amendment in this bill addresses the computation of annuities for surviving spouses. At the present time, a formula based upon a 3-year high salary average and the years of service with a factoring figure of 0.0125 is utilized to determine the annuity. The maximum annuity amount is 40 percent, and this is achievable after 32 years of creditable service. There is no "floor" or minimum amount.

The proposal I offer today would increase the factoring figure utilized in the formula to 0.0150 to allow annuities to contemplate higher costs in these inflationary times. Moreover, this bill will raise the "ceiling" or maximum amounts on annuities to 50 percent of the judicial salary. In order for a spouse to receive this maximum benefit, the judicial officer will have to serve for slightly more than 33 years.

Most importantly, this bill will create a floor of 30 percent of the judicial officer's salary which will vest after 3 complete years of creditable service. This "floor" feature is especially important to our judges who during the past two decades have assumed their positions at the average age of 51. Inadequate annuity amounts for survivors whose spouses die in the early years of judicial service constitute the problem most in need of a remedy.

Naturally, in order to partially offset the costs of the program and to maintain its actuarial integrity, it will be necessary to increase the percentage of judicial contribution. This measure requires that participating judges contribute 5 perent of their salary to the program.

Finally, I think that it is important to note that this program is not mandatory. It is a voluntary program, and due to the costs to the individual, it is more likely that it will appeal to older judges for whom the cost of life insurance may be prohibitive. The surviving spouses and children of deceased judicial officers are the real beneficiaries of this measure, and they deserve our consideration, which will be fully given when we inquire into all aspects of this proposal during hearings on this subject.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Survivors' Annuities Reform Act of 1981."

SEC. 2. (a) Subsections (b) and (d) of section 376 of title 28, United States Code, are amended by striking out "4.5 percent" each place it appears and inserting in lieu thereof "5.0 percent".

(b) Subsection (c) of section 376 of title 28, United States Code, is amended by striking the first sentence and inserting in lieu thereof the following: "There shall also be deposited to the credit of the "Judicial Survivors' Annuities Fund," in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts required to maintain the actuarial balance of the program as such amounts are actuarially determined on an annual basis in accordance with the provisions of Pub. L. 95-595 (31 U.S.C. § 68a)."

(c) Subsection (h)(1)(B) of section 376 of title 28, United States Code, is amended by striking clauses (i) and (ii) and inserting in lieu thereof:

"(i) 10 percent of the average annual salary amount determined in accordance with the provisions of subsection (1) of this section; or

"(ii) 20 percent of such average annual salary amount, divided by the number of children;"

(d) Subsection (h)(1)(C) of section 376 of title 28, United States Code, is amended by striking clauses (ii) and (iii) and inserting in lieu thereof:

"(ii) 20 percent of the average annual salary amount determined in accordance with the provisions of susbection (1) of this section; or

"(iii) 40 percent of such average annual salary amount, divided by the number of children;"

(e) Subsection (1) of section 376 of title 28, United States Code, is amended:

(1) by striking out "1¼ percent" and inserting in lieu thereof "1.5 percent"; and

(ii) by striking out the existing proviso and inserting in lieu thereof:

Provided, That such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 30 percent of such average annual salary, and that any amount determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section, if applicable.

(f) Subsection (h)(2) of section 376 of title 28, United States Code, is amended by striking out the period following "remarriage" and adding "prior to the attainment of sixty years of age.".

SEC. 3. The benefits conferred by this Act shall immediately become available to any individual becoming eligible for an annuity under section 376 of title 28, United States Code, on or after the date upon which this Act becomes effective. *Provided,* That although the rights of any judicial official electing to come within the purview of section 376 of title 28, United States Code, on or after the date upon which this Act becomes effective, shall be determined exclusively under the provisions of that section as amended by this Act, nothing in this Act shall be interpreted to cancel, abrogate or diminish any rights to which an individual or his or her survivors may be entitled by virtue of that individual having contributed to the judicial survivors annuity fund before the date upon which this Act becomes effective.

SEC. 4. At any time within one hundred and eighty days after the date upon which this Act becomes effective, any judicial official who has been participating in the judicial survivors annuity program created by the Act of October 19, 1976 (90 Stat. 2603) shall be entitled to revoke his or her earlier election to participate in that program and thereby completely withdraw from participation in the program as reformed by this Act: *Provided,* That (a) any such revocation may be effected only by means of a writing filed with the Director of the Administrative Office of the United States Courts, (b) any such writing shall be deemed to have become effective no sooner than the date upon which that writing is received by the Director, (c) upon receipt of such a writing by the Director, any and all rights to survivorship benefits for such judical official's survivors shall terminate, and all amounts credited to such judicial official's individual account, together with interest at 3 percent per annum, compounded on December 31 of each year to that date of revocation, shall thereafter be returned to that judicial official in a lumpsum refund payment, and (d) any judicial official who effects such a revocation and who subsequently again becomes eligible and elects to join the judicial survivors annuities program created by this Act under the provisions of section 376 of title 28, United States Code, as amended by this Act, shall be permitted to do so only upon the redeposit of the full amount of the refund obtained under this section plus interest at 3 percent per annum, compounded on December 31 of each year from the date of the revocation until the date upon which that amount is redeposited. Any judicial official who fails to effect a revocation in accordance with the right conferred by this section within one hundred and eighty days after the date upon which this Act becomes effective shall be deemed to have irrevocably waived the right to that revocation.

SEC. 5. This Act shall become effective on the first day of the third month following the month in which it is enacted.