

112TH CONGRESS
1ST SESSION

H. R. 178

To amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan for military surviving spouses to offset the receipt of veterans dependency and indemnity compensation.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Mr. WILSON of South Carolina introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan for military surviving spouses to offset the receipt of veterans dependency and indemnity compensation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Surviving
5 Spouses Equity Act”.

1 **SEC. 2. REPEAL OF REQUIREMENT OF REDUCTION OF SBP**
2 **SURVIVOR ANNUITIES BY DEPENDENCY AND**
3 **INDEMNITY COMPENSATION.**

4 (a) REPEAL.—

5 (1) REPEAL.—Subchapter II of chapter 73 of
6 title 10, United States Code, is amended as follows:

7 (A) In section 1450, by striking subsection

8 (c).

9 (B) In section 1451(c)—

10 (i) by striking paragraph (2); and

11 (ii) by redesignating paragraphs (3)

12 and (4) as paragraphs (2) and (3), respec-

13 tively.

14 (2) CONFORMING AMENDMENTS.—Such sub-
15 chapter is further amended as follows:

16 (A) In section 1450—

17 (i) by striking subsection (e); and

18 (ii) by striking subsection (k).

19 (B) In section 1451(g)(1), by striking sub-
20 paragraph (C).

21 (C) In section 1452—

22 (i) in subsection (f)(2), by striking
23 “does not apply—” and all that follows
24 and inserting “does not apply in the case
25 of a deduction made through administra-
26 tive error.”; and

1 (ii) by striking subsection (g).

2 (D) In section 1455(c), by striking “,
3 1450(k)(2),”.

4 (b) PROHIBITION ON RETROACTIVE BENEFITS.—No
5 benefits may be paid to any person for any period before
6 the effective date provided under subsection (f) by reason
7 of the amendments made by subsection (a).

8 (c) PROHIBITION ON RECOUPMENT OF CERTAIN
9 AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-
10 ENTS.—A surviving spouse who is or has been in receipt
11 of an annuity under the Survivor Benefit Plan under sub-
12 chapter II of chapter 73 of title 10, United States Code,
13 that is in effect before the effective date provided under
14 subsection (f) and that is adjusted by reason of the
15 amendments made by subsection (a) and who has received
16 a refund of retired pay under section 1450(e) of title 10,
17 United States Code, shall not be required to repay such
18 refund to the United States.

19 (d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY
20 FOR DEPENDENT CHILDREN.—Section 1448(d)(2) of
21 such title is amended—

22 (1) by striking “DEPENDENT CHILDREN.—”
23 and all that follows through “In the case of a mem-
24 ber described in paragraph (1),” and inserting “DE-

1 PENDENT CHILDREN.—In the case of a member de-
2 scribed in paragraph (1),”; and

3 (2) by striking subparagraph (B).

4 (e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY
5 ELIGIBLE SPOUSES.—The Secretary of the military de-
6 partment concerned shall restore annuity eligibility to any
7 eligible surviving spouse who, in consultation with the Sec-
8 retary, previously elected to transfer payment of such an-
9 nuity to a surviving child or children under the provisions
10 of section 1448(d)(2)(B) of title 10, United States Code,
11 as in effect on the day before the effective date provided
12 under subsection (f). Such eligibility shall be restored
13 whether or not payment to such child or children subse-
14 quently was terminated due to loss of dependent status
15 or death. For the purposes of this subsection, an eligible
16 spouse includes a spouse who was previously eligible for
17 payment of such annuity and is not remarried, or remar-
18 ried after having attained age 55, or whose second or sub-
19 sequent marriage has been terminated by death, divorce
20 or annulment.

21 (f) EFFECTIVE DATE.—This section and the amend-
22 ments made by this section shall take effect on the later
23 of—

24 (1) October 1, 2011; or

- 1 (2) the first day of the first month that begins
- 2 after the date of the enactment of this Act;

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