Public Law 973 CHAPTER 944

AN ACT

August 3, 1956
[H. R. 11124]

To amend title 28, United States Code, to provide for the payment of annuities to widows and dependent children of judges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 375 in the analysis of chapter 17 of title 28, United States Code, immediately preceding section 371, is amended and a new item 376 is inserted immediately thereunder, to read as follows:

Widows and children of judges. Annuities.

"375. Annuities to widows of justices.
"376. Annuities to widows and surviving dependent children of judges."

(b) The catchline to section 375 of title 28, United States Code, is amended to read as follows:

"§ 375. Annuities to widows of justices".

SEC. 2. Chapter 17 of title 28, United States Code, is amended by inserting at the end thereof, immediately following section 375, a new section reading as follows:

62 Stat. 903.

"§ 376. Annuities to widows and surviving dependent children of judges

"(a) Any judge of the United States may by written election filed with the Director of the Administrative Office of the United States Courts within six months after the date on which he takes office (or within six months after the enactment of this section) bring himself within the purview of this section.

Withholding deduction.

"(b) There shall be deducted and withheld from the salary of each judge electing to bring himself within the purview of this section a sum equal to 3 per centum of such judge's salary, including salary paid after retirement from regular active service under section 371 (b) or 372 (a) of this title or after retirement from office by resignation on salary under section 371 (a) of this title. The amounts so deducted and withheld from the salary of each such judge shall, in accordance with such procedure as may be prescribed by the Comptroller General of the United States, be deposited in the Treasury of the United States to the credit of a fund to be known as the 'judicial survivors annuity fund' and said fund is appropriated for the payment of annuities, refunds and allowances as provided by this section. Every judge who elects to bring himself within the purview of this section shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the provisions of this section.

Deposits in fund.

"(c) Each judge who has elected to bring himself within the purview of this section shall deposit, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the credit of the judicial survivors annuity fund created by this section a sum equal to 3 per centum of his salary received for service as a judge of the United States (including salary received after retirement from regular active service under section 371 (b) or 372 (a) of this title and salary received after retirement from office by resignation on salary under section 371 (a) of this title), and of his basic salary, pay, or compensation for service as a Senator, Representative, Delegate or Resident Commissioner in Congress and for any other civilian service within the purview of

section 707 of title 5. Such interest shall not be required for any period during which the judge was separated from all such service and was not receiving salary under section 371 (a) or 373 of this title. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annuity of the widow of such judge shall be reduced by an amount equal to 10 per centum of the amount of such deposit, computed as of the date of the death of such judge, unless such widow shall elect to eliminate such service entirely from credit under subsection (o) of this section: *Provided*, That no deposit shall be required from a judge for any service rendered prior to August 1, 1920, or for any honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Investments.

"(d) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, such portions of the judicial survivors annuity fund as in his judgment may not be immediately required for the payment of annuities, refunds and allowances as provided in this section. The income derived from such investments shall constitute a part of said fund for the purpose of paying annuities and of carrying out the provisions of subsections (f), (g), (i), and (j) of this section.

Credits to individual accounts.

"(e) The amount deposited by or deducted and withheld from the salary of each judge electing to bring himself within the purview of this section for credit to the judicial survivors annuity fund created by this section covering service from and after August 1, 1920, shall be credited to an individual account of such judge.

Refund.

"(f) If any judge who has elected to bring himself within the purview of this section resigns from office otherwise than on salary under section 371 (a) of this title, the amount credited to his individual account, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum, thereafter, compounded on December 31st of each year, to the date of his relinquishment of office, shall be returned to him.

Payment to widow and children.

"(g) In case any judge who has elected to bring himself within the purview of this section shall die while in office (whether in regular active service or retired from such service under section 371 (b) or 372 (a) of this title), or after retirement from office by resignation on salary under section 371 (a) of this title, after having rendered at least five years of civilian service computed as prescribed in subsection (o) of this section, for the last five years of which the salary deductions provided for by subsection (b) of this section or the deposits required by subsection (c) of this section have actually been made—

"(1) if such judge is survived by a widow but not by a dependent child, there shall be paid to such widow an annuity beginning with the day of the death of the judge or following the widow's attainment of the age of fifty years, whichever is the later, in an amount computed as provided in subsection (n) of this section; or

"(2) if such judge is survived by a widow and a dependent child or children, there shall be paid to such widow an immediate annuity in an amount computed as provided in subsection (n) of this section, and there shall also be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow, but not to exceed $900 per year divided

by the number of such children or $360 per year, whichever is lesser; or

"(3) if such judge leaves no surviving widow or widower but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which such widow would have been entitled under paragraph (2) of this subsection had she survived, but not to exceed $480 per year.

Termination of annuity.

"The annuity payable to a widow under this subsection shall be terminable upon her death or remarriage. The annuity payable to a child under this subsection shall be terminable upon (A) his attaining the age of eighteen years, (B) his marriage, or (C) his death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability his annuity shall be terminable only upon death, marriage, or recovery from such disability. In case of the death of a widow of a judge leaving a dependent child or children of the judge surviving her the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a dependent child, under this subsection, is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

"(h) As used in this section—

"Widow".

"(1) The term 'widow' means a surviving wife of an individual, who either (A) shall have been married to such individual for at least two years immediately preceding his death or (B) is the mother of issue by such marriage, and who has not remarried.

"Dependent child."

"(2) The term 'dependent child' means an unmarried child, including a dependent stepchild or an adopted child, who is under the age of eighteen years or who because of physical or mental disability is incapable of self-support.

Determination of dependency and disability.

"Questions of dependency and disability arising under this section shall be determined by the Director of the Administrative Office of the United States Courts subject to review only by the Judicial Conference of the United States the decision of which shall be final and conclusive. The Director may order or direct at any time such medical or other examinations as he shall deem necessary to determine the facts relative to the nature and degree of disability of any dependent child who is an annuitant or applicant for annuity under this section, and may suspend or deny any such annuity for failure to submit to any examination.

Payment to certain survivors.

"(i) In any case in which (1) a judge who has elected to bring himself within the purview of this section shall die while in office (whether in regular active service or retired from such service under section 371 (b) or 372 (a) of this title), or after retirement from office by resignation on salary under section 371 (a) of this title, before having rendered five years of civilian service computed as prescribed in subsection (o) of this section, or after having rendered five years of such civilian service but without a survivor or survivors entitled to annuity benefits provided by subsection (g) of this section, or (2) the right of all persons entitled to annuity under subsection (g) of this section based on the service of such judge shall terminate before a valid claim therefor shall have been established, the total amount credited to the individual account of such judge, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum, thereafter, compounded on December 31st of each year, to the date of the death of such judge, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the

date title to the payment arises, in the following order of precedence, and such payment shall be a bar to recovery by any other person:

"First, to the beneficiary or beneficiaries whom the judge may have designated by a writing received by the Administrative Office of the United States Courts prior to his death;

"Second, if there be no such beneficiary, to the widow of such judge;

"Third, if none of the above, to the child or children of such judge and the descendants of any deceased children by representation;

"Fourth, if none of the above, to the parents of such judge or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such judge;

"Sixth, if none of the above, to such other next of kin of such judge as may be determined by the Director of the Administrative Office of the United States Courts to be entitled under the laws of the domicile of such judge at the time of his death.

"Determination as to the widow or child of a judge for the purposes of this subsection shall be made by the Director of the Administrative Office of the United States Courts without regard to the definition of these terms stated in subsection (h) of this section.

Order of precedence of payments.

"(j) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31st of each year, to the date of the death of such judge, the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in subsection (i) of this section.

"(k) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

"First, to the duly appointed executor or administrator of the estate of such person;

"Second, if there is no such executor or administrator payment may be made, after the expiration of thirty days from the date of the death of such person, to such individual or individuals as may appear in the judgment of the Director of the Administrative Office of the United States Courts to be legally entitled thereto, and such payment shall be a bar to recovery by any other individual.

Payment to guardian, etc.

"(l) Where any payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the Director of the Administrative Office of the United States Courts shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

Payment in monthly installments, etc.

"(m) Annuities granted under the terms of this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. None of the moneys mentioned in this section shall be assignable, either in law or in equity,

or subject to execution, levy, attachment, garnishment, or other legal process.

Computation of annuity.

"(n) The annuity of the widow of a judge who has elected to bring himself within the purview of this section shall be an amount equal to the sum of (1) 1¼ per centum of the average annual salary received by such judge for judicial service and any other prior allowable service during the last five years of such service prior to his death, or retirement from office by resignation on salary under section 371 (a) of this title, multiplied by the sum of his years of judicial service, his years of prior allowable service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of prior allowable service performed as a member of the Armed Forces of the United States, and his years, not exceeding fifteen, of prior allowable service performed as an employee described in section 698 (g) of title 5, and (2) ¾ of 1 per centum of such average annual salary multiplied by his years of any other prior allowable service, but such annuity shall not exceed 37½ per centum of such average annual salary and shall be further reduced in accordance with subsection (c) of this section, if applicable.

68 Stat. 21.

"(o) Subject to the provisions of subsection (c) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of his widow shall include his years of service as a judge of the United States (whether in regular active service or retired from such service under section 371 (b) or 372 (a) of this title), his years of service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of active service as a member of the Armed Forces of the United States not exceeding five years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and his years of any other civilian service within the purview of section 707 of title 5.

Receipt of other annuities.

"(p) Nothing contained in this section shall be construed to prevent a widow eligible therefor from simultaneously receiving an annuity under this section and any annuity to which she would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of her annuity under this section shall not be credited.

"(q) The judges of the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and judges of the United States, as defined in section 451 of this title, who are entitled to hold office only for a term of years shall be deemed judges of the United States for the purposes of this section and shall be entitled to bring themselves within the purview of this section by filing an election as provided in subsection (a) of this section within the time therein specified. In the case of such judges the phrase 'retirement from office by resignation on salary under section 371 (a) of this title' as used in subsections (b), (c), (g), (i) and (n) of this section shall mean 'retirement from office by resignation on salary under section 373 of this title or by removal or failure of reappointment after not less than ten years judicial service', and the phrase 'resigns from office otherwise than on salary under section 371 (a) of this title' as used in subsection (f) of this section shall mean 'resigns from office otherwise than on salary under section 373 of this title or is removed or fails of reappointment after less than ten years judicial service'."

SEC. 3. Paragraph (7) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

"(7) Regulate and pay annuities to widows and surviving dependent children of judges and necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers and employees of the Administrative Office, while absent from their official stations on official business."

SEC. 4. The first paragraph of section 605 of title 28, United States Code, is amended to read as follows:

Annual estimates.

"The Director, under the supervision of the Judicial Conference of the United States, shall submit to the Bureau of the Budget annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the courts and the Administrative Office and the operation of the judicial survivors annuity fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law. The Director shall cause periodic examinations of the judicial survivors annuity fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose, and whose findings and recommendations shall be transmitted by the Director to the Judicial Conference."

Periodic examinations.

Appropriations.

SEC. 5. Funds necessary to carry out the provisions of this Act may be appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 6. A judge who resigned prior to the date of enactment of this Act and who on that date is receiving salary under section 371 (a) of title 28, United States Code, or who resigned, was removed or failed of reappointment prior to the date of enactment of this Act and who on that date is receiving salary under section 373 of title 28, United States Code, shall be considered a judge within the meaning of section 376 of title 28, United States Code, as added by section 2 of this Act, and as such shall be entitled within six months after the date of enactment of this Act to make the election authorized by and to receive the benefits of that section. A judge who retired from regular active service under section 260 of the Judicial Code of 1911 or the Act of August 5, 1939, chapter 433, and who is living on the date of enactment of this Act shall be deemed for the purposes of this Act to have retired from regular active service under section 371 (b) or 372 (a), as the case may be, of title 28, United States Code.

53 Stat. 1204.

Prior death of judge.

Payment of annuity to widow.

SEC. 7. In the case of a living widow of a judge of the United States as defined in section 451 of title 28, United States Code, who died prior to the date of enactment of this Act, an annuity shall be paid as provided in section 376 of title 28, United States Code, as added by section 2 of this Act, as if such judge had died on such date and had elected to bring himself within the purview of such section 376, but had not made the deposit provided for by subsection (c) of the said section: *Provided*, (a) That such widow has not remarried; and (b) that the amount of such annuity and the reduction therein because of such deposit not having been made shall be computed on the basis of the actual length of judicial and other allowable service of such judge: *And provided further*, That notwithstanding the provisions of subsection (g) of such section 376 such annuity shall be payable even though such judge had not rendered five years of civilian service prior to his death. In the case of a judge of the United States as defined in section 451 of title 28, United States Code, who dies within 6 months after the date of enactment of this Act after having rendered at least 5 years of civilian service computed as prescribed in subsection (o) of section 376 of title 28, United States Code, as added by section 2 of this Act, but without having made an election as provided in such section

376 to bring himself within the purview of that section, an annuity shall be paid to his widow and surviving dependent children as provided in such section 376 as if such judge had elected on the day of his death to bring himself within the purview of such section 376 but had not made the deposit provided for by subsection (c) of the said section. An annuity shall be payable under this section computed on the basis of the actual length of judicial and other allowable service of the judge and subject to the reduction required by subsection (c) of such section 376 even though no deposit has been made, as required by subsection (g) of such section 376, with respect to any of such service.

Approved August 3, 1956.

Public Law 974 CHAPTER 945

JOINT RESOLUTION

August 3, 1956
[H. J. Res. 695]

To suspend the application of certain Federal laws with respect to personnel employed by the House Committee on Ways and Means in connection with the investigations ordered by H. Res. 331 and H. Res. 606, Eighty-fourth Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That service or employment of any person not presently employed by the Federal Government as an attorney, accountant, expert, or professional staff member in assisting the Committee on Ways and Means of the House of Representatives, or any duly authorized subcommittee thereof, in the investigations authorized by H. Res. 331 and H. Res. 606, Eighty-fourth Congress, shall not be considered as service or employment bringing such person within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States.

House Committee on Ways and Means. Employment of certain personnel.

62 Stat. 697.

Approved August 3, 1956.

Public Law 975 CHAPTER 946

AN ACT

August 3, 1956
[H. R. 8157]

To provide for the burial in the Memorial Amphitheater of the National Cemetery at Arlington, Virginia, of the remains of an unknown American who lost his life while serving overseas in the Armed Forces of the United States during the Korean conflict.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense is authorized and directed (1) to cause to be brought to the United States the remains of an American who lost his life while serving overseas in the Armed Forces of the United States during the Korean conflict and whose identity has not been established, and (2) to provide for the burial, with appropriate ceremonies, on Memorial Day, May 30, 1958, of such unknown American in conjunction with the burial of the unknown American of the Second World War, as authorized by the Act of June 24, 1946 (Public Law 429, Seventy-ninth Congress), in the Memorial Amphitheater of the National Cemetery at Arlington, Virginia, near or beside the remains of the Unknown American Soldier of the First World War.

Unknown American of Korean conflict. Burial.

60 Stat. 302.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to carry out the purposes of this Act.

Appropriation.

Approved August 3, 1956.