

PROVIDING THAT THE UNEXPLAINED ABSENCE OF ANY EX-SERVICE MAN FOR 7 YEARS SHALL BE DEEMED SUFFICIENT EVIDENCE OF DEATH FOR THE PURPOSE OF LAWS ADMINISTERED BY THE VETERANS' ADMINISTRATION

DECEMBER 12, 1941.—Ordered to be printed

Mr. CLARK of Missouri, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 4787]

The Committee on Finance, to whom was referred the bill (H. R. 4787) to provide that the unexplained absence of any ex-service man for 7 years shall be deemed sufficient evidence of death for the purpose of laws administered by the Veterans' Administration, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

Amend the title so as to read:

A bill to provide that the unexplained absence of any individual for seven years shall be deemed sufficient evidence of death for the purpose of laws administered by the Veterans' Administration.

The purpose of the proposed legislation and the amendment is fully explained in a letter from the Administrator of Veterans' Affairs to the chairman, Committee on Finance, United States Senate, which is attached hereto and made a part of this report.

[H. Rept. No. 1155, 77th Cong., 1st sess.]

The Committee on World War Veterans' Legislation, to whom was referred the bill (H. R. 4787) proposing to provide that the unexplained absence of any ex-service man for 7 years shall be deemed sufficient evidence of death for the purpose of laws administered by the Veterans' Administration, respectfully submit the following report, without amendment, with the recommendation that the bill, H. R. 4787, do pass.

This bill has the approval of the Veterans' Administration and the Bureau of the Budget. The language of this bill is identical with the language recommended

2 EVIDENCE ESTABLISHING DEATH FOR LAW ADMINISTRATION

by the Administrator of Veterans' Affairs in his report on H. R. 2493 to the committee, and the report is self-explanatory and is as follows:

VETERANS' ADMINISTRATION,
Washington, April 29, 1941.

HON. JOHN E. RANKIN,
*Chairman, Committee on World War Veterans' Legislation,
House of Representatives, Washington, D. C.*

MY DEAR MR. RANKIN: Further reference is made to your letter of January 24, 1941, requesting a report on H. R. 2493, Seventy-seventh Congress, a bill to provide for presumption of death after 7 years of unexplained absence of any ex-service man, which provides:

"That the unexplained absence of any ex-service man from his home or usual place of abode for 7 years, who cannot be located after diligent search, shall be deemed sufficient evidence of his death for the purpose of laws administered by the Veterans' Administration, and the Administrator of Veterans' Affairs is hereby authorized and directed to pay any benefits provided by such laws in the event of such veteran's death."

This bill is identical with section 1 of H. R. 8355, Seventy-sixth Congress, on which a report was furnished your committee under date of August 2, 1940.

The act of March 13, 1896 (29 Stat. 57; 38 U. S. C. 32), establishes a presumption of death applicable to claims filed for pension under any public law. Section 312 (a) of the World War Adjusted Compensation Act, as amended (38 U. S. C. 622), provides for presumption of death from unexplained absence as applicable under the provisions of that act. Section 610 of Public, No. 801, Seventy-sixth Congress, approved October 8, 1940, provides for presumption of death from unexplained absence as applicable to National Service Life Insurance. The language of the statutory provisions above cited is not uniform, and there is no statutory presumption of death applicable to other claims for benefits, payable under laws administered by the Veterans' Administration. Because of the lack of statutory provision for presumption of death under the World War Veterans' Act, 1924, as amended, Federal courts, in accordance with the provisions of the Conformity Act, apply the law of the State where suit is brought under the provisions of section 19 of the World War Veterans' Act, 1924, as amended, in cases involving claims based upon allegations that death is to be presumed from unexplained absence.

In the interest of uniformity, it would appear desirable to have uniform statutory presumption of death applicable to all benefits payable under laws administered by the Veterans' Administration. The bill would provide a uniform statutory provision applicable to all benefits under laws administered by the Veterans' Administration in claims based upon death alleged to be established by evidence of unexplained absence, but does not contain specific direction or authorization to any person to make such determination. As the presumption is to be applicable only to laws administered by the Veterans' Administration, it is suggested that the following language should be substituted for the language of the bill:

"No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Veterans' Administration. If evidence satisfactory to the Administrator of Veterans' Affairs is produced, establishing the fact of the continued and unexplained absence of any individual from his home and family for a period of seven years, during which period no evidence of the absentee's existence has been received, the death of such absentee as of the date of the expiration of such period may be considered as sufficiently proved."

Attention is invited to the fact that the bill, as now drafted, or if amended in the manner above suggested, would authorize payment of benefits under Public, No. 484, Seventy-third Congress, approved June 28, 1934, as amended, in cases in which the unexplained absence of a World War veteran for 7 years could be satisfactorily established and it could also be shown that such veteran necessarily had a service-connected disability at the time the presumption of death arose. Under existing laws, as interpreted by the Veterans' Administration, benefits are not payable in such cases in which evidence of the veteran's death is alleged to be established by his unexplained absence for any specific period of time.

While there is not sufficient data available to estimate the cost of the proposed legislation, it is apparent that such cost would be negligible.

If amended in the manner above suggested, the Veterans' Administration would recommend favorable consideration of the bill.

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

Very truly yours,

FRANK T. HINES, *Administrator.*

This bill is designed to make uniformity and it would appear desirable to have uniform statutory presumption of death applicable to all benefits available under laws administered by the Veterans' Administration. Inasmuch as this is new legislation and does not specifically amend any existing laws, paragraph 2a of rule XIII of the Rules of the House of Representatives has not been complied with.

