

OCA 87-0472
10 February 1987

MEMORANDUM FOR: Director of Personnel

FROM:

[Redacted]

STAT

Legislation Division
Office of Congressional Affairs

SUBJECT:

Former Spouse Legislation

1. HPSCI staffer Bernie Raimo has indicated that HPSCI intends to include in the FY88 Intelligence Authorization Bill the attached provision giving former spouses a survivor's annuity similar to which widows and widowers are entitled if their spouse dies before retirement or separation from the Agency. Former Spouses of Foreign Service Officers currently have this benefit.

2. Mr. Raimo has requested the Agency's informal opinion of this provision. It is requested that the Office of Personnel examine and provide to this Office your opinion regarding the draft legislation. I will then informally provide our comments to Mr. Raimo.

[Redacted]

Attachments as
stated

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Distribution: Original - Addressee

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OCA Registry

[Redacted] Signer

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OCA/Leg/Subject File: Former Spouses

OCA/leg, [Redacted] (10 Feb 87)

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TB014

HLC

100TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

Amending the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to provide death in service benefits for former spouses.

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

TB014

2

1 That section 232(b) of the Central Intelligence Agency
2 Retirement Act of 1964 for Certain Employees (50 U.S.C. 403
3 note) is amended--

4 (1) by striking ``widow or a widower`` and inserting
5 in lieu thereof ``widow, widower, or former spouse``;

6 (2) by inserting ``and such former spouse shall, if
7 qualifying for an annuity under section 222(b), be
8 entitled to such annuity as if the participant died after
9 being entitled to an annuity under this Act,`` after
10 ``section 221(a),``;

11 (3) by striking ``such section`` both places it
12 appears and inserting in lieu thereof ``such sections``;

13 (4) by striking ``annuity of such widow or widower``
14 and inserting in lieu thereof ``annuity of such widow,
15 widower, or former spouse``; and

16 (5) by striking ``widow or dependent widower`` and
17 inserting in lieu thereof ``widow, dependent widower, or
18 former spouse``.

FORASN SERVICE ACT OF 1980

PUBLIC LAW 96-465—OCT. 17, 1980

94 STAT. 2111

States Code. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this subsection nor any provision of such subchapter shall be construed to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of the death of any other individual.

(e) Notwithstanding any other law, the right of any individual entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, United States Code, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

- (1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or
- (2) authorize the deduction of such amount from the annuity payable under this Act, which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding.

Deductions.

(f) A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

Claim.

Waiver.

SEC. 809. DEATH IN SERVICE.—(a) If a participant dies and no claim for annuity is payable under this Act, the lump-sum credit shall be paid in accordance with section 815.

22 USC 4049.

(b) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 814(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 806(a) and any surviving former spouse shall be entitled to an annuity under section 814(b) as if the participant died after being entitled to an annuity under this chapter. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

Survivor annuities.

(c) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 806.

(d) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or