

104TH CONGRESS
2D SESSION

S. 1756

To provide additional pension security for spouses and former spouses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 1996

Ms. MOSELEY-BRAUN (for herself, Ms. SNOWE, Mrs. MURRAY, Mr. KERRY, Ms. MIKULSKI, Mr. WELLSTONE, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide additional pension security for spouses and former spouses, and for other purposes.

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 “Women’s Pension Eq-
5 uity Act of 1996”.

6 **SEC. 2. MODEL SPOUSAL CONSENT FORM AND QUALIFIED**
7 **DOMESTIC RELATIONS ORDER.**

8 (a) MODEL SPOUSAL CONSENT FORM.—

1 (1) AMENDMENT TO INTERNAL REVENUE
2 CODE.—Section 417(a) of the Internal Revenue
3 Code of 1986 is amended by adding at the end the
4 following new paragraph:

5 “(7) CONSENT FORM.—The Secretary shall de-
6 velop a form not later than January 1, 1997, for the
7 spousal consent required under paragraph (2)
8 which—

9 “(A) is written in a manner calculated to
10 be understood by the average person, and

11 “(B) discloses in plain form whether—

12 “(i) the waiver is irrevocable, and

13 “(ii) the waiver may be revoked by a
14 qualified domestic relations order.”.

15 (2) AMENDMENT TO ERISA.—Section 205(c) of
16 the Employee Retirement Income Security Act of
17 1974 (29 U.S.C. 1055(c)) is amended by adding at
18 the end the following new paragraph:

19 “(8) The Secretary of the Treasury shall de-
20 velop a form not later than January 1, 1997, for the
21 spousal consent required under paragraph (2)
22 which—

23 “(A) is written in a manner calculated to
24 be understood by the average person, and

25 “(B) discloses in plain form whether—

1 “(i) the waiver is irrevocable, and

2 “(ii) the waiver may be revoked by a
3 qualified domestic relations order.”.

4 (b) MODEL QUALIFIED DOMESTIC RELATIONS
5 ORDER.—

6 (1) AMENDMENT TO ERISA.—Section 206(d)(3)
7 of the Employee Retirement Income Security Act of
8 1974 (29 U.S.C. 1056(d)(3)) is amended by adding
9 at the end the following new subparagraph:

10 “(O) The Secretary shall develop a form not later
11 than January 1, 1997, for a qualified domestic relations
12 order—

13 “(i) which meets all the requirements of sub-
14 paragraph (B)(i), and

15 “(ii) the provisions of which focus attention on
16 the need to consider the treatment of any lump sum
17 payment, qualified joint and survivor annuity, or
18 qualified preretirement survivor annuity.”.

19 (2) AMENDMENT TO INTERNAL REVENUE
20 CODE.—Section 414(p) of the Internal Revenue
21 Code of 1986 is amended by adding at the end the
22 following new paragraph:

23 “(13) The Secretary of Labor shall develop a
24 form not later than January 1, 1997, for a qualified
25 domestic relations order which—

1 “(A) which meets all the requirements of
2 paragraph (1)(A), and

3 “(B) the provisions of which focus atten-
4 tion on the need to consider the treatment of
5 any lump sum payment, qualified joint and sur-
6 vivor annuity, or qualified preretirement survi-
7 vor annuity.”.

8 (c) PUBLICITY.—The Secretary of the Treasury and
9 the Secretary of Labor shall include publicity for the
10 model forms required by the amendments made by this
11 section in the pension outreach efforts undertaken by each
12 Secretary.

13 **SEC. 3. EXTENSION OF TIER II RAILROAD RETIREMENT**
14 **BENEFITS TO SURVIVING FORMER SPOUSES**
15 **PURSUANT TO DIVORCE AGREEMENTS.**

16 (a) IN GENERAL.—Section 5 of the Railroad Retire-
17 ment Act of 1974 (45 U.S.C. 231d) is amended by adding
18 at the end the following new subsection:

19 “(d) Notwithstanding any other provision of law, the
20 payment of any portion of an annuity computed under sec-
21 tion 3(b) to a surviving former spouse in accordance with
22 a court decree of divorce, annulment, or legal separation
23 or the terms of any court-approved property settlement
24 incident to any such court decree shall not be terminated
25 upon the death of the individual who performed the service

1 with respect to which such annuity is so computed unless
 2 such termination is otherwise required by the terms of
 3 such court decree.”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 this section shall take effect on the date of the enactment
 6 of this Act.

7 **SEC. 4. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
 8 **AND FORMER SPOUSES OF FEDERAL EM-**
 9 **PLOYEES WHO DIE BEFORE ATTAINING AGE**
 10 **FOR DEFERRED ANNUITY UNDER CIVIL**
 11 **SERVICE RETIREMENT SYSTEM.**

12 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section
 13 8341(f) of title 5, United States Code, is amended—

14 (1) in the matter preceding paragraph (1) by—

15 (A) by inserting “a former employee sepa-
 16 rated from the service with title to deferred an-
 17 nuity from the Fund dies before having estab-
 18 lished a valid claim for annuity and is survived
 19 by a spouse, or if” before “a Member”; and

20 (B) by inserting “of such former employee
 21 or Member” after “the surviving spouse”;

22 (2) in paragraph (1)—

23 (A) by inserting “former employee or”
 24 before “Member commencing”; and

1 (B) by inserting “former employee or”
2 before “Member dies”; and

3 (3) in the undesignated sentence following para-
4 graph (2)—

5 (A) in the matter preceding subparagraph

6 (A) by inserting “former employee or” before
7 “Member”; and

8 (B) in subparagraph (B) by inserting
9 “former employee or” before “Member”.

10 (b) BENEFITS FOR FORMER SPOUSE.—Section
11 8341(h) of title 5, United States Code, is amended—

12 (1) in paragraph (1) by adding after the first
13 sentence “Subject to paragraphs (2) through (5) of
14 this subsection, a former spouse of a former em-
15 ployee who dies after having separated from the
16 service with title to a deferred annuity under section
17 8338(a) but before having established a valid claim
18 for annuity is entitled to a survivor annuity under
19 this subsection, if and to the extent expressly pro-
20 vided for in an election under section 8339(j)(3) of
21 this title, or in the terms of any decree of divorce
22 or annulment or any court order or court-approved
23 property settlement agreement incident to such de-
24 creee.”; and

25 (2) in paragraph (2)—

1 (A) in subparagraph (A)(ii) by striking “or
2 annuitant,” and inserting “annuitant, or former
3 employee”; and

4 (B) in subparagraph (B)(iii) by inserting
5 “former employee or” before “Member”.

6 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—
7 Section 8339(j)(3) of title 5, United States Code, is
8 amended by inserting at the end the following:

9 “The Office shall provide by regulation for the appli-
10 cation of this subsection to the widow, widower, or surviv-
11 ing former spouse of a former employee who dies after
12 having separated from the service with title to a deferred
13 annuity under section 8338(a) but before having estab-
14 lished a valid claim for annuity.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act and shall apply only in the case of a former
18 employee who dies on or after such date.

19 **SEC. 5. COURT ORDERS RELATING TO FEDERAL RETIRE-**
20 **MENT BENEFITS FOR FORMER SPOUSES OF**
21 **FEDERAL EMPLOYEES.**

22 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

23 (1) IN GENERAL.—Section 8345(j) of title 5,
24 United States Code, is amended—

1 (A) by redesignating paragraph (3) as
2 paragraph (4); and

3 (B) by inserting after paragraph (2) the
4 following new paragraph:

5 “(3) Payment to a person under a court decree, court
6 order, property settlement, or similar process referred to
7 under paragraph (1) shall include payment to a former
8 spouse of the employee, Member, or annuitant.”.

9 (2) LUMP-SUM BENEFITS.—Section 8342 of
10 title 5, United States Code, is amended—

11 (A) in subsection (c) by striking “Lump-
12 sum benefits” and inserting “Subject to sub-
13 section (j), lump-sum benefits”; and

14 (B) in subsection (j)(1) by striking “the
15 lump-sum credit under subsection (a) of this
16 section” and inserting “any lump-sum credit or
17 lump-sum benefit under this section”.

18 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—
19 Section 8467 of title 5, United States Code, is amended—

20 (1) by redesignating subsection (c) as sub-
21 section (d); and

22 (2) by inserting after subsection (b) the follow-
23 ing new subsection:

24 “(c) Payment to a person under a court decree, court
25 order, property settlement, or similar process referred to

1 under subsection (a) shall include payment to a former
2 spouse of the employee, Member, or annuitant.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 6. PREVENTION OF CIRCUMVENTION OF COURT**
7 **ORDER BY WAIVER OF RETIRED PAY TO EN-**
8 **HANCE CIVIL SERVICE RETIREMENT ANNU-**
9 **ITY.**

10 (a) CIVIL SERVICE RETIREMENT AND DISABILITY
11 SYSTEM.—(1) Subsection (c) of section 8332 of title 5,
12 United States Code, is amended by adding at the end the
13 following:

14 “(4) If an employee or Member waives retired pay
15 that is subject to a court order for which there has been
16 effective service on the Secretary concerned for purposes
17 of section 1408 of title 10, the military service on which
18 the retired pay is based may be credited as service for
19 purposes of this subchapter only if, in accordance with
20 regulations prescribed by the Director of the Office of Per-
21 sonnel Management, the employee or Member authorizes
22 the Director to deduct and withhold from the annuity pay-
23 able to the employee or Member under this subchapter,
24 and to pay to the former spouse covered by the court
25 order, the same amount that would have been deducted

1 and withheld from the employee's or Member's retired pay
2 and paid to that former spouse under such section 1408.”.

3 (2) Paragraph (1) of such subsection is amended by
4 striking out “Except as provided in paragraph (2)” and
5 inserting “Except as provided in paragraphs (2) and (4)”.

6 (b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

7 (1) Subsection (c) of section 8411 of title 5, United States
8 Code, is amended by adding at the end the following:

9 “(5) If an employee or Member waives retired pay
10 that is subject to a court order for which there has been
11 effective service on the Secretary concerned for purposes
12 of section 1408 of title 10, the military service on which
13 the retired pay is based may be credited as service for
14 purposes of this chapter only if, in accordance with regula-
15 tions prescribed by the Director of the Office of Personnel
16 Management, the employee or Member authorizes the Di-
17 rector to deduct and withhold from the annuity payable
18 to the employee or Member under this subchapter, and
19 to pay to the former spouse covered by the court order,
20 the same amount that would have been deducted and with-
21 held from the employee's or Member's retired pay and
22 paid to that former spouse under such section 1408.”.

23 (2) Paragraph (1) of such subsection is amended by
24 striking out “Except as provided in paragraph (2) or (3)”

1 and inserting “Except as provided in paragraphs (2), (3),
2 and (5)”.

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on January 1, 1997.

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