

No. 22

AN ACT

SB 401

Amending the act of July 18, 1968 (P.L.405, No.183), entitled "An act providing compensation to certain persons who served in the military, naval or air forces of the United States or of any of her allies during the Vietnam Conflict; providing the method of making payment to representatives of person who, because of death or incapacity, cannot personally receive compensation; imposing certain duties on the Adjutant General; making an appropriation and providing penalties," further providing for persons missing in action who are not declared dead or captured and extending the deadline for applications.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3, act of July 18, 1968 (P.L.405, No.183), known as the "Vietnam Conflict Veterans' Compensation Act," amended October 9, 1969 (P.L.243, No.99), is amended to read:

Section 3. Computation of Compensation.—Compensation shall be payable under this act only to any veteran who was a legal resident of this Commonwealth. Compensation shall be computed on the basis of twenty-five dollars (\$25) for every month, or major fraction thereof, of active service in Vietnam theatre of operations as defined for the award of the Vietnam Service Medal, or spent in military hospitals as a result of service-connected wounds, diseases, or injuries, sustained or acquired in such Vietnam theatre of operations. The compensation of a veteran who died in the active armed forces duty in the Vietnam theatre of operations or as a result of disease, wound, or injury incurred in the Vietnam theatre of operations, *or those missing in action who have not been declared dead or captured* shall be one thousand dollars (\$1,000). No veteran, except a veteran *who has been declared missing in action* or who died in active military, naval or air service during the period set forth in section 2 of this act shall be entitled to receive compensation under this act in a sum to exceed seven hundred fifty dollars (\$750).

Section 2. Sections 4 and 5 of the act are amended to read:

Section 4. Application for Compensation.—Applications for compensation shall be made to the Adjutant General on forms and in the manner as he shall prescribe.

All applications shall be made (1) personally by the veteran, or (2) in case of death or mental incompetency *or missing in action* preventing the making of a personal application, then by such representative of the veteran as the Adjutant General shall by regulation prescribe. An application made by a representative other than one authorized by such regulation shall be void.

The Adjutant General shall not accept or consider any application filed or mailed after **[two]four** years beyond the date which Congress establishes as the end of the period of service for which a person shall be eligible to receive the Vietnam Service Medal.

Section 5. Persons to Whom Payments Shall be Made in Case of Death or Mental Incapacity *or Missing in Action*.—If, prior to the date of distribution of compensation under the provisions of this act, a veteran entitled thereto dies or is determined to be legally dead by the Federal authorities under any act for the payment of Federal benefits or becomes mentally incapable of receiving his or her compensation, payment shall be made by the Adjutant General without proceedings in this Commonwealth.

(1) In case of mental incapacity, to the guardian or committee, if any, of the veteran, or in case of a veteran who is hospitalized in a State, county or Federal institution for mental or nervous diseases upon order of the Adjutant General, without regard to the residence of the veteran, to the person or persons who would be entitled thereto under the provisions of this act, if the veteran were deceased and in the absence of any such claimant, to the superintendent, manager or person in charge of such State, county or Federal institution to be expended for the clothing and incidental needs of said veteran. No part of the compensation shall be paid to any county or State institution for the maintenance of the veterans. A statement from the manager, superintendent or person in charge of any State, county or Federal institution, wherein the veteran is a patient, shall be admitted in evidence to determine the mental condition of the veteran. The statement shall set forth that the veteran due to his weakness of mind is likely to dissipate such funds as may be due him under the provisions of this act and is apt to become the victim of designing persons.

(2) In the case of death *or those missing in action, who have not been declared dead or captured*, to the following persons in the order named: surviving *wife or* remarried widow if the *wife or* widow was living with the veteran at the time of his death *or departure*, or if not living with the veteran at the time of his death *or departure or* if she establish to the satisfaction of the Adjutant General that the living apart was not due to her wilful act and that she was actually dependent upon the veteran at the time of his death *or departure* or at any time thereafter and before the final payment is made by the designated authorities, or surviving minor child or surviving minor children, share, and share alike or surviving mother and/or surviving father. The term "child" shall include an adopted child. The terms "mother" and "father" include mothers and fathers through adoption and persons who have for a period of not less than one year acted in the capacity of a foster parent to the veteran immediately prior to his or her having attained the age of eighteen years.

Section 3. This act shall take effect immediately.

APPROVED—The 16th day of March, A. D. 1976.

MILTON J. SHAPP