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APPROVED
DEC 23 1975

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: December 27

December 22, 1975

*Postal in
colored 12/23
To Archie
12/24*

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: Enrolled Bill H.R. 2110 - For the Relief of Joyce Ann Farrior and Sarah E. Farrior

Attached for your consideration is H.R. 2110, sponsored by Representative Henderson, which provides for the payment of social security benefits to Joyce and Sarah Farrior by deeming Joyce Farrior to have been legally adopted by Sarah Farrior within the time period required by the Social Security Act.

A discussion of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 2110 at Tab B.



A





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 22 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 2110 - For the relief of
Joyce Ann Farrior and Sarah E. Farrior
Sponsor - Rep. Henderson (D) North Carolina

Last Day for Action

December 27, 1975 - Saturday

Purpose

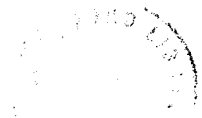
Provides for the payment of social security benefits to Joyce and Sarah Farrior by deeming Joyce Farrior to have been legally adopted by Sarah Farrior within the time period required by the Social Security Act.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval

Discussion

H.R. 2110 would provide for the payment of child's social security benefits to Joyce Ann Farrior and mother's social security benefits to Sarah E. Farrior on the basis of the social security earnings record of Sarah's husband, Maiden E. Farrior. The benefits would be effective as of May 26, 1967, the date of Mr. Farrior's death. Neither Joyce nor Sarah Farrior is currently eligible for social security benefits because the final adoption of Joyce did not occur until more than two years after Mr. Farrior died.



Under the social security law, survivor benefits may be paid to a child who, at the time of the insured worker's death, was living with the worker and was not receiving support payments from any other individual or any welfare agency, even if the child was not the worker's natural or adoptive child. To qualify, however, the child must be adopted by the worker's surviving spouse within 2 years after the death of the insured worker.

Joyce Ann Farrior was born in 1964 and lived with the deceased worker, Maiden E. Farrior, from a few months after her birth until his death in May, 1967. The analysis of H.R. 2110 provided by HEW explains in detail the sequence of the adoption proceedings following Maiden E. Farrior's death. In brief, Mrs. Farrior's attorney instituted adoption proceedings in North Carolina in 1967 and an interlocutory order of adoption was signed in August, 1968. However, the final order completing the adoption was not signed until October 10, 1969, 4-1/2 months beyond the 2-year social security time limit. The delay was caused by the attorney's failure to file papers promptly and because an unusual provision of North Carolina law requires a 1-year waiting period between an interlocutory order of adoption and a final decree of adoption.

HEW had testified that it had no objection to this bill. The Department notes that the facts described above present "an exceedingly rare, perhaps even unique, case." HEW is not aware of any other failure to meet the 2-year adoption requirement that is wholly comparable, and accordingly, recommends approval of H.R. 2110, stating, "In the absence of others similarly situated, enactment of this bill would not result in inequity."

James M. Frey
Assistant Director for
Legislative Reference





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

DEC 18 1975

Dear Mr. Lynn:

This is in response for your request for a report on H.R. 2110, an enrolled bill "For the relief of Joyce Ann Farrior and Sarah E. Farrior."

We have no objection to this bill, which is explained in detail in the accompanying staff memorandum. In essence, the bill would provide that for the purpose of qualifying for social security child's benefits in the case of Joyce Ann Farrior, and social security mother's benefits in the case of Sarah E. Farrior, on the basis of the wages and self-employment income of the late Maiden E. Farrior, Joyce Ann Farrior would be considered to have been legally adopted by Mr. Farrior's spouse, Sarah E. Farrior, within two years after the death of her husband.

We do not ordinarily support special legislation that would provide an advantage to some persons under conditions identical with those in which others are denied similar treatment. Cases such as those presented by Joyce and Sarah Farrior should be resolved under remedial legislation of general applicability which would permit the payment of benefits to children adopted by a worker's surviving spouse without regard to when the adoption occurred if proceedings for the adoption of the child were initiated by the worker's surviving spouse within one year after the death of the worker.

Nevertheless, as we informed the House Judiciary Committee, the Farrior matter, turning as it does on an unhappy conjunction of two circumstances--counsel's failure to file papers promptly with the court and a peculiarity of



North Carolina law--presents an exceedingly rare, perhaps even unique, case. We are aware of no other failure to meet the two-year adoption requirement that is wholly comparable. In the absence of others similarly situated, enactment of this bill would not result in inequity.

Accordingly, we recommend that the bill be approved.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Watkins". The signature is written in black ink and is positioned centrally on the page.

Secretary

Enclosure



ANALYSIS OF ENROLLED BILL H.R. 2110

Under the social security law, dependent's benefits for a child are provided only for a worker's child, stepchild, or adopted child. A child who was not adopted by the worker but who was adopted by his surviving spouse after his death is deemed under the social security law to be the legally adopted child of the worker for social security benefit purposes if the child was living with the worker at the time he died, the child was not receiving contributions for his support from someone other than the worker or his spouse or from a welfare agency which furnishes services or assistance for children, and either the worker had instituted adoption procedures before his death or the adoption took place within two years after his death. The requirement that either the worker must have initiated adoption proceedings before his death or the child must have been adopted by the worker's surviving spouse within two years after the worker's death is included in the law to permit the payment of benefits to a child whom the worker intended to adopt but had not adopted at the time he died without also providing benefits for a child who is adopted for the sole purpose of qualifying him for benefits. Although the latter motive does not exist in most cases, some requirement seems necessary and the two-year requirement in the law has not seemed unreasonable where the worker did not institute adoption proceedings before he died.

Joyce A. Farrior is not the child, stepchild, or adopted child of Maiden E. Farrior. He did not institute adoption proceedings before his death, and his widow, Sarah W. Farrior, did not adopt Joyce until more than two years after Mr. Farrior died. Therefore, Joyce does not qualify for social security benefits as Maiden Farrior's child, nor Sarah for social security benefits as Joyce's mother.

Joyce A. Farrior was born on January 7, 1964. Sarah W. and Maiden E. Farrior took Joyce into their home four months after her birth. Mrs. Farrior has said that she and her husband

talked about adopting Joyce and that after a few years she went to the Pender County (North Carolina) Courthouse about a month before Mr. Farrior died for the purpose of taking out adoption papers but did not actually initiate proceedings for adoption at that time because the employees at the courthouse advised her that she should engage the services of an attorney. About a month later, on May 26, 1967, Maiden E. Farrior was killed in an automobile accident without having initiated proceedings to legally adopt Joyce.

On June 5, 1967, Sarah W. Farrior filed an application for child's insurance benefits on behalf of Joyce Ann Farrior. The claim was denied because Joyce did not meet the requirements of the Social Security Act that the child must be the child, stepchild, or adopted child of the worker. Subsequently Mrs. Farrior engaged an attorney and began proceedings to adopt Joyce Ann Farrior. Apparently she first contacted her attorney in 1967. However, an interlocutory order of adoption was not signed until August 26, 1968, and the final order completing the adoption was not signed until October 10, 1969. (Under the laws of North Carolina, at least one year must elapse between the date of the interlocutory order of adoption and the final adoption decree.)

On November 4, 1969, Mrs. Farrior filed a new claim for benefits on behalf of her adopted daughter. This claim was also denied; under the law, Joyce Ann Farrior could not be considered the legally adopted child of Maiden E. Farrior because Mrs. Farrior's adoption of Joyce was not completed until more than two years after Mr. Farrior's death. At the request of Mrs. Farrior, the claim was independently reviewed within the Social Security Administration, and the determination made on the basis of that review affirmed the earlier decision. Mrs. Farrior requested a review of her claim by a hearing examiner. On October 12, 1970, the hearing examiner upheld the earlier decisions. Subsequently, the case was reviewed by the Appeals Council, which concluded that the hearing examiner's decision was correct.

Sarah Farrior was informed that she had two years after her husband's death to adopt Joyce in order to qualify her for child's benefits based on Mr. Farrior's social security earnings,

and she engaged the services of a firm of attorneys for the purpose of adopting Joyce. Her attorneys have stated that "Mrs. Farrior did hire us at a time which should have allowed her to get the adoption within the period specified under the U.S. statutes." They have also stated, however, that they were "not aware of the importance of rushing the adoption and meeting any deadline in connection with social security benefits," and refer to their "lack of knowledge in connection with the adoption" and their "delay in the completion."



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 22 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 2110 - For the relief of
Joyce Ann Farrior and Sarah E. Farrior
Sponsor - Rep. Henderson (D) North Carolina

Last Day for Action

December 27, 1975 - Saturday

Purpose

Provides for the payment of social security benefits to Joyce and Sarah Farrior by deeming Joyce Farrior to have been legally adopted by Sarah Farrior within the time period required by the Social Security Act.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval

Discussion

H.R. 2110 would provide for the payment of child's social security benefits to Joyce Ann Farrior and mother's social security benefits to Sarah E. Farrior on the basis of the social security earnings record of Sarah's husband, Maiden E. Farrior. The benefits would be effective as of May 26, 1967, the date of Mr. Farrior's death. Neither Joyce nor Sarah Farrior is currently eligible for social security benefits because the final adoption of Joyce did not occur until more than two years after Mr. Farrior died.

Calendar No. 525

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-546

JOYCE ANN FARRIOR AND SARAH E. FARRIOR

DECEMBER 12, 1975.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 2110]

The Committee on Finance, to which was referred the bill (H.R. 2110) for the relief of Joyce Ann Farring and Sarah E. Farring, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

DESCRIPTION OF PROVISIONS

H.R. 2110 provides that for purposes of determining the eligibility of Joyce Ann Farring to child's insurance benefits and of Sarah E. Farring to mother's insurance benefits under title II of the Social Security Act the child Joyce Ann Farring will be considered to have been adopted within two years after the death of Maiden Earl Farring. The bill further provides that any resultant benefit entitlement will be retroactive to the date of death of Maiden Earl Farring.

GENERAL STATEMENT

The Social Security Act provides for child survivor benefits to be paid to a child who, at the time of the insured worker's death, was living with the worker and was not receiving support payments from any other individual or any welfare agency even if the child was not the worker's natural or adoptive child. To qualify, however, the child must be adopted by the worker's surviving spouse within 2 years after the death of the insured worker.

Joyce Ann Farring was born in 1964 and lived with the deceased worker, Maiden E. Farring, from a few months after her birth until his death in an automobile accident in May 1967. She meets all of the above requirements except that the final decree of adoption was issued 4 and one-half months beyond the 2-year time limit because of the fail-

ure of her adoptive mother's attorney to complete the adoption proceedings and because of a North Carolina law requiring a one-year waiting period between the interlocutory order of adoption and a final decree of adoption.

H.R. 2110 would permit the payment of child's benefits to Joyce Ann Farrior and mother's benefits to Sarah E. Farrior retroactive to the date of death of the insured worker, Maiden E. Farrior (May 1967). The Department of Health, Education, and Welfare has indicated that it does not object to the enactment of this legislation.

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill. The bill was ordered reported by voice vote.



JOYCE ANN FARRIOR

JULY 31, 1975.—Committed to the Committee of the Whole House and
ordered to be printed

MR. FLOWERS, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 2110]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2110) for the relief of Joyce Ann Farrior, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 4: After "section 202(d)", insert "and to mother's benefits for Sarah E. Farrior under section 202(g)".

Page 1, line 9: Strike "Sarah W. Farrior" and insert "said Sarah E. Farrior".

Page 1, line 11: After "Act.", insert:

The entitlement to benefits authorized by this Act shall be effective as of May 26, 1967, the date of death of the said Maiden E. Farrior.

Amend the title to read:

A bill for the relief of Joyce Ann Farrior and Sarah E. Farrior.

PURPOSE

The purpose of the proposed legislation, as amended, is to provide that for the purposes of determining entitlement to child's benefits and mother's benefits under sections 202(d) and 202(g) of the Social Security Act, Joyce Ann Farrior is to be held and considered to have been adopted within two years of the death of Maiden E. Farrior within the meaning of section 216(e) of that Act. The entitlement to benefits provided for in the bill are to be effective as of May 26, 1967, the date of death of the said Maiden E. Farrior.

STATEMENT

At a hearing on the bill held on June 17, 1975, representatives of the Department of Health, Education, and Welfare indicated they would have no objection to relief as provided in the amended bill.

The testimony at the hearing established that in the year 1964, Maiden E. Farrior and his wife, Sarah E. Farrior, took into their home a baby girl three to four months of age. She remained in the home and was raised as the daughter of the couple until the death of Maiden E. Farrior on May 26, 1967. Under the Social Security Act, Section 216(e), a child of an insured individual is defined to include a child adopted by the individual surviving spouse within two years of the day on which the individual died. Such a child is entitled to child's insurance benefits under section 202(d) of the Act. In consultation with Social Security officials, Mrs. Farrior was advised of these provisions and understood that the child would have to be legally adopted. In January of the following year 1968, Mrs. Farrior employed an attorney to institute the adoption proceedings and paid an initial fee of \$65.00. Evidence of that payment was filed with the committee. The difficulty in this case is that under North Carolina law, after a petition for adoption is filed, an interlocutory decree is entered and there is a compulsory statutory waiting period of one calendar year of the date of the interlocutory decree. A delay in the actual filing of the petition and the consequential entry of an interlocutory decree was encountered in this case and the result was that the actual final decree of adoption was entered after the two-year period fixed in the Social Security law had expired. There is no provision in the Social Security law which would permit an adjustment or an extension under these circumstances so that Mrs. Farrior in her own behalf and in behalf of the adopted child was required to appeal to the Congress for relief.

The committee has been advised that Mrs. Farrior is not presently receiving widow's insurance benefits. However, as is indicated in the amended bill, she would appear to be entitled to mother's insurance benefits upon enactment of the bill under section 202(g) of the Social Security Act, and the committee has recommended an amendment to clarify that intent.

The committee amendment, identifies the mother as Sarah E. Farrior since the committee has been advised that the final order of adoption shows Mrs. Farrior's name as Sarah Elizabeth Farrior. The committee was also informally advised that under normal circumstances, benefits of the type referred to in the bill are made retroactive to the date of the month of the father's death. Accordingly, the committee has also amended the bill to provide that the payment of benefits shall have this retroactive effect.

In view of the circumstances of this case, the committee has determined that legislative relief is merited as provided in the amended bill. The facts presented to the committee and as outlined above indicate that relief in this instance is consistent with the intent of the law. It is a case in which the adopting mother and child are being denied benefits because of time limitations found in Federal and State statutes which have had the unintended result of denying such benefits. It is recommended that the amended bill be considered favorably.



Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

For the relief of Joyce Ann Farrior and Sarah E. Farrior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of determining entitlement to child's insurance benefits under section 202(d) and to mother's benefits for Sarah E. Farrior under section 202(g) of the Social Security Act, as amended, on the basis of wages and self-employed income of Maiden E. Farrior (social security account numbered 243-16-2096), Joyce Ann Farrior of Burgaw, North Carolina, shall be held and considered to have been adopted by said Sarah E. Farrior within two years of the death of the said Maiden E. Farrior within the meaning of section 216(e) of that Act. The entitlement to benefits authorized by this Act shall be effective as of May 26, 1967, the date of death of the said Maiden E. Farrior.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

6
December 16, 1975

Dear Mr. Director:

The following bills were received at the White House on December 16th:

✓ S. 2757 ✓
✓ H.R. 1753 ✓
✓ H.R. 2110 ✓
✓ H.R. 4865 ✓
✓ H.R. 6642 ✓
✓ H.R. 7976 ✓
✓ H.R. 10647 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.

