

VIETNAM CONFLICT VETERANS' COMPENSATION ACT
Act of Jul. 18, 1968, P.L. 405, No. 183
AN ACT

Cl. 51

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 persons who, because of death or incapacity, cannot personally receive compensation; imposing certain duties on the Adjutant General; making an appropriation and providing penalties.

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

Section 1. Citation of Act.--This act shall be cited as the "Vietnam Conflict Veterans' Compensation Act."

Section 2. Definitions.--As used in this act, the word "veteran" includes any member of the armed forces of the United States eligible to receive the Vietnam Service Medal, but does not include (1) any individual at any time during such periods or thereafter separated from such forces under other than honorable conditions; (2) any individual who has renounced his United State citizenship.

The term "legal resident of this Commonwealth" means any individual who gave Pennsylvania or any specific place in this Commonwealth as his or her place of residence or home address when entering the armed forces of the United States without regard to the place of enlistment, commission, or induction. The proof of such residence shall be either the official records of the United States, or such other evidence of bona fide residence as may be deemed sufficient by the Adjutant General of Pennsylvania.

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).

(3 amended Mar. 16, 1976, P.L.53, No.22)

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 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.

(4 amended Mar. 16, 1976, P.L.53, No.22)

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 unremarried 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.

(5 amended Mar. 16, 1976, P.L.53, No.22)

Section 6. Applicant to Designate Beneficiaries.--Every person making application for compensation, as herein provided, shall set forth in his or her application the names and addresses of all persons who under this act would be entitled to receive the same in the event of the death of the applicant, and if the applicant dies before the payment of the compensation, then the application shall be deemed to inure to the benefit of the person or persons next entitled thereto, and payments shall be made to such person or persons upon proof of identity satisfactory to the Adjutant General. If all persons designated herein as entitled to compensation die before payment thereof, the right to the compensation shall cease and determine. Application for compensation, made in behalf of minor children, shall be made by the duly appointed guardian of such children or by any person who stands in loco parentis to the minor children, and payments shall be made to the guardians or persons.

Section 7. Exemption from Attachment, etc.--No sum payable under this act to a veteran or to any other person under this act shall be subject to attachment, levy or seizure under any legal or equitable process, and shall be exempt from all State taxation. No right to compensation under the provisions of this act shall be assignable, except as hereinafter provided, or serve as a security for any loan. Any assignment or loan made in violation of the provisions of this section shall be held void. Assignments to any group or organization of veterans, incorporated or unincorporated, or to any nonprofit corporation heretofore formed, solely for aiding disabled or incapacitated veterans and assignments to the State Veterans' Commission shall be valid. The State Veterans' Commission is hereby authorized to accept the assignments which shall be treated as confidential, and the funds realized from them shall be expended by the commission solely for the aid of needy veterans and their families. Except as in this section provided, the Adjutant General shall not direct the payment nor shall payment be made under this act to any person other than a veteran or the representatives of a veteran, as in this act provided.

Section 8. Penalty for Fees for Assisting Veterans.--Any person who charges or collects, or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting, in any manner, a veteran in obtaining any of the benefits to which he or she is entitled under the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than seven hundred fifty dollars (\$750), or undergo imprisonment for not more than one year, or both.

Section 9. Digest and Explanation of Act.--The Adjutant General shall, as soon as practicable after the approval of this act, prepare and publish a pamphlet or pamphlets containing

a digest and explanation of the provisions of this act, accompanied by statements which he believes may be of assistance to the veterans in filing their applications and shall, from time to time, prepare and publish any additional or supplementary information as may be found necessary.

The pamphlet or pamphlets shall be distributed in a manner as the Adjutant General may determine to be most effective to inform veterans of their rights under this act. The Adjutant General, shall enlist as far as possible the services of veteran organizations in this Commonwealth in the dissemination of such information.

Section 10. Ascertainment of Service.--Immediately upon the passage of this act, the Adjutant General shall ascertain the individuals who are veterans as defined in section 2 and as to each veteran, the number of months of service as defined in section 3 for which he or she is entitled to receive compensation, and his decisions shall be final and not subject to review by any court or by any other officer. In all cases not within the express purview of this act, the decision of the Adjutant General, as to payment or nonpayment of compensation or eligibility therefor, shall be in all things final.

Section 11. False or Fraudulent Statements; Penalty.--Whoever knowingly makes any false or fraudulent statement of a material fact in any application, certificate or document made under the provisions of this act, or of any regulation made by the Adjutant General in administering this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or undergo imprisonment for not more than five years, or both.

Section 12. Administration of Act.--For the purpose of carrying into effect the provisions of this act, the Adjutant General of the Commonwealth is charged with the administration thereof, and for that purpose, he shall prepare and distribute application blanks, investigate all claims and applications filed with him, and if satisfied of the proof of such claim or application, approve the same and direct payment thereof, and shall make any regulation necessary to the efficient administration of the provisions of this act.

The books, papers and records, together with the filing cases and equipment procured and used in the administration of this act, shall become a part of the permanent records of the office of Adjutant General.

All printing necessary to carry out the provisions of this act shall be done by the Bureau of Publications on the requisition of the Adjutant General to the Department of Property and Supplies.

The Adjutant General may employ the necessary clerical help and fix their salaries and pay for postage and other expenses incurred in the administration of this act. In all appointments under this act, preference shall, so far as practicable, be given to veterans as defined in this act.

Employees of the Department of Military Affairs of this Commonwealth, whose specific duty is to aid and assist veterans and their widows, children and dependents in the prosecution of claims before the Veterans' Administration or other branch of the Federal government, are hereby authorized and empowered to administer oaths and affirmations in all matters pertaining to and concerning such claims.

Section 13. Appropriation.--For the purpose of paying for the compensation to eligible veterans, and clerical services, postage and other necessary expenses incurred by the Adjutant

General in the administration of this act, the sum of twenty-eight million dollars (\$28,000,000), or as much thereof as may be necessary, is specifically appropriated to the Department of Military Affairs.

Compiler's Note: The voters approved the incurring of indebtedness of \$28,000,000 at the general election held on November 5, 1968.

Section 14. Payment.--(a) The compensation payable under this act shall be paid by the State Treasurer from the Vietnam Conflict Veterans' Compensation Fund, to be created with funds realized from a proposed bond issue, if and when approved pursuant to Article VIII, section 7(a)(3) of the Constitution of Pennsylvania, upon requisition by the Adjutant General.

(b) Payments under this act shall be made as soon as possible after funds thereof are available.

(c) Compensation paid for hospitalization under section 3 hereof spent in military hospitals outside of the Vietnam theatre of operations shall be paid from the Vietnam Conflict Veterans' Compensation Fund, if and when approved by the electorate.

(14 amended Oct. 9, 1969, P.L.243, No.99)

Section 15. Referendum.--(15 repealed Oct. 16, 1973, P.L.299, No.92)

Section 16. Effective Date.--This act shall take effect immediately.