

RELIEF OF MRS. FLORENCE NARUSEWICZ

NOVEMBER 17, 2004.—Referred to the Private Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 710]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 710) for the relief of Mrs. Florence Narusewicz of Erie, Pennsylvania, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 710 would direct the Secretary of Veterans Affairs to pay Mrs. Florence Narusewicz \$28,000, representing the amount of an award for her husband's disability incurred during active duty in World War II.

BACKGROUND AND NEED FOR THE LEGISLATION

Mrs. Florence Narusewicz is the widow of Leo Narusewicz. Mr. Narusewicz fought in World War II and was a Purple Heart veteran. In June 2000, the Department of Veterans Affairs ("VA") awarded Mr. Narusewicz a disability pension retroactive to his discharge in 1945 in the amount of \$28,000. When Mrs. Narusewicz notified the VA that her husband had died on July 12, 2000, the VA informed Mrs. Narusewicz that she was only entitled to accrued benefits dating back 2 years.

This case mirrors the situation of two other women whom the Congress passed a private law to assist—Private Law No. 106–17, for the relief of Francis Schochenmaier and Mary Hudson.

In the case of Frances Schochenmaier, her husband, a war hero, suffered an injury during his military service and received disability compensation from the VA from 1945 until 1995. The VA reevaluated his disability and determined that he had been paid \$60,567.58 less than he deserved. However, just prior to the VA paying Mr. Schochenmaier the amount due him, he passed away. They determined that Mrs. Schochenmaier could not receive those monies due to restriction on awards of accrued benefits to 2 years for survivors. A private law was enacted to allow Mrs. Schochenmaier to receive the \$60,567.58 owed her husband for his disability.

In the case of Mary Hudson, her husband filed a claim with the VA in 1990 for a service-connected disability incurred during World War II. Eight years later, the Board of Veterans Appeals entered a favorable decision on Mr. Hudson's claim, ruling that Mr. Hudson's bilateral hearing loss and residuals of concussion were service-connected. On January 12, 2000, the VA mailed a check to Mr. Hudson in the amount of \$97,253 for retroactive benefits relating to his disability. Mr. Hudson had died 4 days earlier. The VA determined that Mrs. Hudson was not eligible to receive the lump sum check for retroactive disability benefits as a survivor under the same statute cited in the Schochenmaier case. A private law was enacted to allow Mrs. Hudson to keep the \$97,253 received by her and owed her husband for his disability.

After the Committee had ordered H.R. 710 reported to the House, the Committee discovered that Mrs. Narusewicz had a pending court case relating to this matter of which the Committee was unaware. She received a favorable judgment thereby satisfying her claim in that court case.

Since Mrs. Narusewicz received a favorable judgment in her case, the Committee sees no reason to proceed with the passage of H.R. 710 and will not seek to have it considered on the House floor. The Committee is filing this report simply to establish a record of what happened in this case.

HEARINGS

No hearings were held in the Committee on the Judiciary on H.R. 710.

COMMITTEE CONSIDERATION

On May 12, 2004, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 710 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the committee consideration of H.R. 710.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee notes that according to CBO, this legislation would increase direct spending by \$28,000.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the committee sets forth, with respect to the bill, H.R. 710, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 18, 2004.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 710, a bill for the relief of Mrs. Florence Narusewicz of Erie, Pennsylvania.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright, who can be reached at 226-2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 710—A bill for the relief of Mrs. Florence Narusewicz of Erie, Pennsylvania.

H.R. 710 would require that the Secretary of Veterans Affairs pay \$28,000 to Mrs. Florence Narusewicz, of Erie, Pennsylvania, as

compensation for the amount of an award for disability incurred by her husband, Leo E. Narusewicz. For the purposes of this estimate, CBO assumes the bill will be enacted before October 1, 2004, and the required payment will be made in 2005. CBO estimates that enacting the bill would increase direct spending for veterans disability compensation by \$28,000 in 2005.

The CBO staff contact is Dwayne M. Wright, who can be reached at 226-2840. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 710 will allow Mrs. Florence Narusewicz to collect her husband's disability pension retroactive to his discharge in 1945 in the amount of \$28,000.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following discussion describes the bill as reported by the Committee on the Judiciary.

Sec. 1 Payment of Veterans Benefit Authorized.

Section 1 would grant the Secretary of Veterans Affairs authority to pay Mrs. Florence Narusewicz of Erie, Pennsylvania, the sum of \$28,000. The amount of the award represents the disability incurred by her husband Leo E. Narusewicz during active military service in World War II.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of Rule XIII of the Rules of the House of Representatives, the Committee notes H.R. 710 makes no changes to existing law.

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, MAY 12, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. A quorum is present.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda is the adoption of private bills. The Chair recognizes the gentleman from

Indiana, Mr. Hostettler, the Chairman of the Subcommittee on Immigration, Border Security, and Claims, for a motion.

Mr. HOSTETTLER. Mr. Chairman, the Subcommittee on Immigration, Border Security, and Claims reports favorably the bills H.R. 710, H.R. 712, H.R. 530, H.R. 867, and H.R. 509 and moves their favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, H.R. 710, H.R. 712, H.R. 530, H.R. 867 and Senate 103 will be considered en bloc. We are substituting Senate 103 for H.R. 509 because H.R. 509 is identical to the Senate 503. By making this substitution, we will ensure faster enactment of an identical bill.

Without objection, the en bloc private bills will be considered as read and open for amendment at any point.

[The bill, H.R. 710, follows:]

108TH CONGRESS
1ST SESSION

H. R. 710

For the relief of Mrs. Florence Narusewicz of Erie, Pennsylvania.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2003

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

A BILL

For the relief of Mrs. Florence Narusewicz of Erie,
Pennsylvania.

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. PAYMENT OF VETERANS BENEFIT AUTHOR-**
4 **IZED.**

5 Notwithstanding sections 5121(a) and 5122 of title
6 38, United States Code, the Secretary of Veterans Affairs
7 shall pay to Mrs. Florence Narusewicz of Erie, Pennsyl-
8 vania, the sum of \$28,000, representing the amount of
9 an award for a disability incurred by her husband Leo E.
10 Narusewicz during active military service in World War
11 II, which was paid to Mr. Narusewicz in two installment

7

2

1 checks, neither of which could be deposited or cashed by

2 Mrs. Narusewicz after his death.

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Indiana, Mr. Hostettler, to strike the last word.

Mr. HOSTETTLER. Thank you, Mr. Chairman.

At the outset, I wish to commend the work of the Ranking Member, Ms. Jackson Lee, as well as all of the Members of the Subcommittee for their work in bringing these bills to the full Committee.

Let me give some background on the four private immigration bills and one private claims bill that we will consider en bloc.

H.R. 710 would direct the Secretary of Veterans Affairs to pay Mrs. Florence Narusewicz \$28,000. Mrs. Narusewicz is the widow of Leo Narusewicz, who fought in World War II and was a Purple Heart recipient.

In June 2000, the Department of Veterans Affairs awarded Mr. Narusewicz \$28,000 in disability benefits retroactive to his discharge in 1945. On July 24, 2000, the Department mailed the first of two \$14,000 checks to Mr. Narusewicz. After Mrs. Narusewicz informed the Department that her husband had died on July 12, 2000, her checks were immediately cancelled. This case mirrors the situation of two other women that the 106th Congress passed a private law to assist.

S. 103 would allow Lindita Idrizi Heath to become a permanent resident of the United States. Ms. Heath was born in 1984, in the former Yugoslavia. She was a refugee residing in Germany when she was adopted by Dennis and Mary Jo Heath. Lindita entered the United States on July 2, 2001, under a grant of humanitarian parole and has been residing in Maryland with the Heaths since that day.

Under U.S. immigration law, an adoption of a foreign child must occur prior to the age of 16. Unfortunately, Lindita's adoption was finalized after her sixteenth birthday. Private bill precedent dictates that in order to make an adoption legitimate for immigration purposes, the adoption must have been at least initiated prior to the child's turning age 16. The Heaths meet this condition. They were actively proceeding with Lindita's adoption prior to her sixteenth birthday.

H.R. 712 would allow Richi James Lesley to become a permanent resident of the United States. Mr. Lesley was born in 1977 in Korea to an unknown U.S. serviceman and a Korean woman. They put him up for adoption, and later that year he was adopted by U.S. Air Force Sergeant James Doyle Lesley and his wife in Korea.

In 1978, Sergeant Lesley was killed in a fishing accident. When his wife became unable to care for their children, the Air Force, with her consent, transported Richi and his sister to America for placement with their adopted father's mother. Richi and his sister resided with his grandmother and, after her death, with other family and friends from the time he was 1 year old until he attended college. He did not realize that he was not a U.S. citizen until the INS began deportation proceedings against him in 2000. Richi has been here since he was an infant and has no memory of ever living anywhere but the United States. His only remedy is a private bill.

H.R. 530 would allow Tanya Andrea Goudeau to become a permanent resident of the United States. Tanya was born in 1984 in Sri Lanka. Her natural father deserted her and her mother when she was 3 years old. Eventually, her natural mother left for Italy,

leaving her in the care of her elderly grandmother. Tanya's aunt and uncle brought Tanya to the United States when she was 14 and immediately commenced adoption proceedings. The adoption was finalized 5 days after her 16th birthday.

H.R. 867 would grant permanent residence to Durreshahwar Durreshahwar, Nida Hasan, Asna Hassan, Anum Hasan and Iqra Hasan. In 1983, Waqar Hassan came to the United States and later brought his wife and four daughters to join him. Mr. Hassan helped manage service stations on a work visa and had a pending application for adjustment of status for himself and his family. On September 15th, 2001, in reaction to the events of September 11th, an unstable man killed Mr. Hassan. Because Mr. Hassan was the petitioner for the family's adjustment, that petition became invalid upon his death. Therefore, under current law, his wife and four daughters who live in suburban New Jersey face removal from the United States.

This private bill, on behalf of the family, would not set any bad precedent. Though he did not die at the World Trade Center or the Pentagon, Mr. Hassan was indeed a victim of the events of September 11th. The Committee is preceding with this bill only because the murder is linked to 9/11. It is inappropriate, generally, for Congress to pass private bills to give status to the families of noncitizens because those noncitizens were killed while in the United States.

With that, Mr. Chairman, I yield back the balance of my time.

Chairman SENSENBRENNER. The gentlewoman from Texas, Ms. Jackson Lee?

Ms. JACKSON LEE. I thank the distinguished Chairman, and I thank the Chairman of the Subcommittee on Immigration, Border Security, and Claims for cooperating and working collectively on these legislative initiatives.

Let me quickly ask unanimous consent for the totality of my statement to be put into the record.

Chairman SENSENBRENNER. Without objection.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Florence Narusewicz is the widow of Leo Narusewicz, a World War II veteran. In June of 2000, the Department of Veterans Affairs (VA) awarded Leo a disability pension and made the pension retroactive to his military discharge in 1945. The total pension was \$28,000, which was to be paid in two checks, but Leo died 12 days before the VA mailed the first of the two checks on July 24, 2000. When Mrs. Narusewicz notified the VA about Leo's death, the VA cancelled the two checks and informed Mrs. Narusewicz that she was only entitled to benefits dating back two years, which was an amount much less than the \$28,000 her husband had been awarded.

I agree that a private bill is warranted to award the entire disability payment to Mrs. Narusewicz.

Lindita Idrizi Heath was a Kosovo refugee living in Germany when she was adopted by Dennis and Mary Jo Heath. Lindita entered the United States on July 2, 2001, under a grant of humanitarian parole. She has been living with her family in Maryland since then.

The adoption was not finalized until June 2001, which was after Lindita had reached the age of 16. Because the adoption was not finalized until after her 16th birthday, it is not recognized under immigration law. The record indicates, however, that the Heaths were actively proceeding with the adoption prior to Lindita's 16th birthday, which apparently satisfies the accepted standard for a private bill in adoption cases, assuming that the circumstances are sympathetic.

I agree that a private bill is warranted in the circumstances of this case, but a better approach for future cases would be to modify the definition of an "adopted child" in section 101(b)(1)(F) of the Immigration and Nationality Act (INA). If we made the "adopted child" definition more flexible, we would not have to enact private bills to avoid harsh, unwarranted consequences in cases such as this one.

Richi James Lesley was born to an unknown United States serviceman. On August 29, 1977, he was adopted by another serviceman in Korea, Sergeant James Doyle Lesley. A year later, Sergeant Lesley was killed in an accident. The United States Air Force transported Richi to the United States where he resided with his grandmother from the time he was a year old until he attended college. He did not know he was in the United States unlawfully until the Immigration and Naturalization Service (INS) initiated deportation proceedings against him in the year 2000. His only avenue for relief now is a private bill. I am very sympathetic to Richi's plight and will vote in favor of his bill.

Tanya Andrea Goudeau is an 18-year-old native and citizen of Sri Lanka. Tanya's father deserted her and her mother when she was only three years old. Then, her mother left her too, leaving her in the care of her elderly grandmother. Tanya's aunt Dee and Dee's husband Roger Goudeau became Tanya's official guardian before she reached the age of 16, but they did not finalize an adoption until after she had reached the age of 16, which is too late for immigration purposes. This is another example of the harsh consequences that are caused by the rigid definition of an "adopted child" in section 101(b)(1)(F) of the INA. As was true in the case of Lindita Idrizi Heath, a private bill is the only avenue available to Tanya for obtaining permanent resident status. I will vote in favor of this bill too.

Waqar Hasan, a Pakistani man who was the head of the Hasan family, was murdered four days after September 11, 2001, for no reason other than that he was a Muslim. Killing him did not bring back the lives of the people who had died on 9/11. It was a savage, pointless act of terror that ended his life and shattered the lives of his wife and four teenage daughters. After living in this country for nine years, Mrs. Hasan lost her husband and the four children lost a father; and they all lost their only avenue for becoming lawful permanent residents of the United States. I agree that this situation warrants a private bill and will vote to grant the Hasan family legal permanent residence in the United States.

Thank you.

Ms. JACKSON LEE. But I would like to summarize and offer these thoughts on H.R. 710, which is a claims bill. And just to emphasize to my colleagues that these legislative private bills clearly are to correct a harm or undoing that was not the doing of the individual petitioner. And I would the same for Mrs. Narusewicz, that in actuality her husband died 12 days before the VA mailed the first of two checks, and when she petitioned to receive those monies, she was denied by the VA. There is no other option for her to be made whole, and we applaud that.

Let me also suggest that the family dealing with Lindita, the adoption was not finalized until June 2001, which was after Lindita had reached the age of 16. Because the adoption was not finalized until after her sixteenth birthday, it is not recognized under immigration law.

It is important to note that that is a fix that needs to occur with respect to adoption laws, so that children who are in line will not opt out of being able to be United States citizens.

Let me also say that this applies to Tanya, the 18-year-old who mistakenly did not finalize her adoption papers, and likewise found herself too late to be able to become a citizen of the United States.

They are laws that need to be modified, and I look forward to working with my colleagues in offering legislation, as well as joining on legislation existing, to help modify that particular problem.

Also, we find Mr. Hassan, who was tragically killed simply because he was a Muslim, simply because he was a Muslim, after 9/11, and obviously there is no remedy for his family in that he was the petitioner to secure the citizenship or the legalization of his family. So Mr. Hassan also states a problem with our immigration

laws that could be fixed with comprehensive immigration reform, which I hope this Committee will have the opportunity to review in H.R. 3918. I support all of these legislative initiatives, including H.R. 867.

I thank Mr. Holt, from New Jersey, for his leadership on the Hassan and all of the other Members, and I would ask my colleagues to support these legislative initiatives, and I would yield to the distinguished lady from California for some comments.

Ms. LOFGREN. I thank the gentlelady.

I support these measures, but I did want to address also the issue of the adoption measures. We have two private bills that would grant legal permanent residence status to children whose adoptions were initiated prior to their sixteenth birthday, but finalized after they turned 16.

Now, I agree that we ought to approve these measures because adoptions can be long and difficult processes, especially when adoptions are multinational. I think it is a mistake for our law to rely on highly variable adoption time frames to determine a child's immigration status. And when you think about it, think about our won families. If your child—natural child—had been adopted, and it was finalized when they were sixteen and a half and that child, under law, had to go back to some country he or she didn't even remember, that would seem ridiculous to you.

And so that's why we have these bills before us. And I think it is a good thing that this Committee can take time away from passing laws of general application to granting justice to individual families who cannot get justice. But I would ask that Members of this Committee consider very strongly cosponsoring a bill that I plan to introduce this week that would change the law relative to adoptions.

I think it is problematic that the only families to get relief from the adoption rule are those families who happen to know a Member of Congress well enough to get a private bill introduced, and heard, and then passed. I think that we ought to make sure that the law, relative to adoptions and legalizing the children of adoptive parents, includes adoptions that are initiated before the age of 16. We ought not to punish families because court processes take a long time or the Immigration Service is bureaucratic. We ought to exalt family life by making sure that the initiative of the adoption is what counts for keeping parents and their adoptive children together.

So I wanted to let Members of the Committee know that we will be introducing that bill later this week. I hope that every Member of this Committee might consider cosponsoring the bill.

With that, I would happily support these measures and yield back.

Chairman SENSENBRENNER. The gentlewoman's time has expired.

Without objection, all Members' opening statements will be placed in the record at this point.

Are there amendments to any of the bills?

The gentleman from New York?

Mr. NADLER. I would like to ask Mr. Hostettler a question.

Chairman SENSENBRENNER. The gentleman from New York strikes the last word and is recognized for 5 minutes.

Mr. NADLER. Yes. Thank you.

Mr. Chairman, I support all of these bills. I want to express my agreement, in one sentence, with Ms. Lofgren. Every one of these bills shows an amendment that ought to be made to the law because you shouldn't need to know a Member of Congress because the law creates such a terrible result that you need a special private bill. The law ought not to create such terrible results. We ought to amend the law.

One thing that the gentleman from Indiana said, I want to ask him why he said that. He said that on the bill that allows the family of this man who was murdered to continue to apply to regularize, adjust—to adjust I think is the phrase—the status, he said it would be inappropriate to do this for other crime victims who are not connected to 9/11. I wonder why.

If someone is here as a legal immigrant, has a green card, et cetera, and under the law has the right to bring his family, and he brings his family, and they are here, and he gets shot in a bank robbery or otherwise killed or, for that matter, in an automobile accident, why should those people be subject to deportation? What is different than this situation?

Mr. HOSTETTLER. If the gentleman would yield. This would establish a precedent that just like the adoptions we would amend the law with regard to the very same situation that you're talking about. There comes a point where the law is the law and that if that law is violated, once again, through no fault of their own, but is nonetheless violated—

Mr. NADLER. Reclaiming my time. You're exactly right—through no fault of their own, and yet you said, you seemed to say—maybe you didn't mean it. I hope you didn't—that it is different because this man was murdered only because of emotions arising from 9/11. It was a hate crime. But if he was murdered because someone wanted to steal his money, then it would be appropriate to deport his family? I don't see the difference. I think, I would hope—I'm not going to put you on the spot—I would hope that we would all consider amending the law so that someone who played by the rules, came to this country legally, has a green card, is living here, brings his family here and then is murdered or, for that matter, gets killed in a car accident, it doesn't mean the family has to be deported. It seems to me the same situation as in this very worthy bill.

I thank you, and I yield back.

Chairman SENSENBRENNER. Are there amendments to any of the bills?

[No response.]

Chairman SENSENBRENNER. Good. A reporting quorum is present. The question occurs on the motion to report the en bloc private bills H.R. 710, H.R. 712, H.R. 530, H.R. 867, and Senate 103 favorably.

All those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. And the motion to report the en bloc private bills favorably is adopted.

Ms. JACKSON LEE. Mr. Chairman?

Chairman SENSENBRENNER. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules

with respect to each separate bill. Without objection, the staff is directed to make any technical and conforming changes with respect to each separate bills and all Members will be given 2 days, as provided by House rules, in which to submit additional dissenting supplemental or minority views with respect to each separate bill.

