

109TH CONGRESS
2D SESSION

H. R. 4914

To amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2006

Mr. EVANS (for himself and Ms. BERKLEY) introduced the following bill;
which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, 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 “Veterans’ Choice of
5 Representation Act”.

1 **SEC. 2. ATTORNEY REPRESENTATION IN VETERANS BENE-**
2 **FITS CLAIMS CASES BEFORE THE DEPART-**
3 **MENT OF VETERANS AFFAIRS.**

4 (a) **AUTHORITY FOR REPRESENTATION AFTER NO-**
5 **TICE OF DISAGREEMENT IS FILED.**—Subsection (c) of
6 section 5904 of title 38, United States Code, is amended
7 in paragraph (1) by striking “the Board of Veterans’ Ap-
8 peals first makes a final decision in the case” and insert-
9 ing “the claimant files a Notice of Disagreement in the
10 case”.

11 (b) **REPEAL OF ONE-YEAR PERIOD FOR RETAINING**
12 **ATTORNEY.**—Paragraph (1) of such subsection is further
13 amended by striking the second and third sentences.

14 (c) **ATTORNEY FEES.**—Such subsection is further
15 amended—

16 (1) in paragraph (1), by striking “paragraph
17 (3)” and inserting “paragraph (4)”;

18 (2) in paragraph (2)—

19 (A) by striking “after the Board first
20 makes a final decision in the case” and insert-
21 ing “after a Notice of Disagreement is filed in
22 the case”;

23 (B) by striking “with the Board at such
24 time as may be specified by the Board” and in-
25 serting “with the Secretary pursuant to regula-
26 tions prescribed by the Secretary”; and

1 (C) by striking the second and third sen-
2 tences;

3 (3) by redesignating paragraph (3) as para-
4 graph (4); and

5 (4) by inserting after paragraph (2) the fol-
6 lowing new paragraph (3):

7 “(3)(A) The Secretary, upon the Secretary’s own mo-
8 tion or at the request of the claimant, may review a fee
9 agreement filed pursuant to paragraph (2) and may order
10 a reduction in the fee called for in the agreement if the
11 Secretary finds that the fee is excessive or unreasonable.
12 A fee that does not exceed 20 percent of the past due
13 amount of benefits awarded on the claim shall be pre-
14 sumed to be reasonable.

15 “(B) A finding or order of the Secretary under sub-
16 paragraph (A) may be reviewed by the United States
17 Board of Veterans’ Appeals under section 7104 of this
18 title.”.

19 (d) PAYMENT OF ATTORNEYS FEES.—Subsection
20 (d)(3) of such section is amended by striking “may” in
21 the first sentence and inserting “shall”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply—

24 (1) to any case for which a Notice of Disagree-
25 ment is filed with the Secretary of Veterans Affairs

1 on or after the date of the enactment of this Act;
2 and
3 (2) to any case for which a Notice of Disagree-
4 ment is filed with the Secretary of Veterans Affairs
5 before the date of the enactment of this Act and
6 that as of the date of the enactment of this Act is
7 pending before the Secretary.

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