

116TH CONGRESS
1ST SESSION

S. 345

To amend title II of the Social Security Act to increase survivors benefits for disabled widows, widowers, and surviving divorced spouses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. CASEY (for himself, Mrs. GILLIBRAND, Mrs. MURRAY, Ms. KLOBUCHAR, Ms. STABENOW, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act to increase survivors benefits for disabled widows, widowers, and surviving divorced spouses, 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 “Surviving Widow(er)

5 Income Fair Treatment Act of 2019”, or the “SWIFT

6 Act”.

1 **SEC. 2. ELIGIBILITY FOR UNREDUCED SURVIVORS BENE-**
2 **FITS FOR WIDOWS, WIDOWERS, AND SUR-**
3 **VIVING DIVORCED SPOUSES WITH DISABIL-**
4 **ITIES AT ANY AGE.**

5 (a) IN GENERAL.—Section 202 of the Social Security

6 Act (42 U.S.C. 402) is amended—

7 (1) in subsection (e)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (B)(ii)—

10 (I) by striking “has attained age
11 50 but has not attained age 60 and”;
12 and

13 (II) by striking “which began be-
14 fore the end of the period specified in
15 paragraph (4)”; and

16 (ii) in subparagraph (F)(ii), by strik-
17 ing “(I) in the period specified in para-
18 graph (4) and (II)”;

19 (B) by amending paragraph (3) to read as
20 follows:

21 “(3) For purposes of paragraph (1), if a widow
22 or surviving divorced wife marries after the first
23 month in which she satisfies subparagraphs (A) and
24 (B) of such paragraph, such marriage shall be
25 deemed not to have occurred.”;

26 (C) by striking paragraph (4); and

1 (D) in paragraph (5)(A), by amending
2 clause (ii) to read as follows:

6 (2) in subsection (f)—

7 (A) in paragraph (1)—

12 (II) by striking “which began be-
13 fore the end of the period specified in
14 paragraph (4)”; and

15 (ii) in subparagraph (F)(ii), by striking
16 “(I) in the period specified in para-
17 graph (4) and (II)”;

18 (B) by amending paragraph (3) to read as
19 follows:

20 “(3) For purposes of paragraph (1), if a wid-
21 ower or surviving divorced husband marries after the
22 first month in which he satisfies subparagraphs (A)
23 and (B) of such paragraph, such marriage shall be
24 deemed not to have occurred.”;

25 (C) by striking paragraph (4); and

1 (D) in paragraph (5)(A), by amending
2 clause (ii) to read as follows:

3 “(ii) which begins not earlier than the first
4 day of the seventeenth month before the month
5 in which his application is filed.”.

6 (b) ELIMINATION OF REDUCTION OF BENEFIT
7 AMOUNTS FOR BENEFITS CLAIMED BY WIDOWS, WID-
8 OWERS, AND SURVIVING DIVORCED SPOUSES WITH DIS-
9 ABILITIES BEFORE RETIREMENT AGE.—Section 202(q)
10 of the Social Security Act (42 U.S.C. 402(q)) is amend-
11 ed—

17 (2) in paragraph (5), by adding at the end the
18 following new subparagraph:

19 “(E) No widow’s or widower’s insurance benefit shall
20 be reduced under this subsection for any month during
21 which the individual entitled to such benefit is entitled to
22 the benefit on the basis of paragraph (1)(B)(ii) of sub-
23 section (e) (in the case of a widow’s insurance benefit)
24 or paragraph (1)(B)(ii) of subsection (f) (in the case of
25 a widower’s insurance benefit).”; and

(3) in paragraph (7)—

(A) in subparagraph (E), by striking “ben-

efits, and" and inserting "benefits,";

(B) in subparagraph (F), by striking the

period at the end and inserting “, and”; and

(C) by adding at the end the following new

subparagraph:

“(G) in the case of a widow’s or widower’s income benefit—

“(i) any month in which there was no re-

duction to the benefit under this subsection pursuant to paragraph (5)(E); and

“(ii) any month in which there would have

been no reduction to the benefit under this subsection pursuant to paragraph (5)(E) if such

paragraph had been in effect for such month.”.

TECHNICAL AMENDMENTS.—Section 20.

urity Act (42 U.S.C. 40

in subsection (e)—

(A) by redesignating paragraphs (5)

ugh (8) as paragraphs (4) through (7); and

(B) in paragraph (1)(F)(i), by striking

“(as defined in paragraph (5))” and inserting

“(as defined in paragraph (4))”; and

(2) in subsection (f)—

1 (A) by redesignating paragraphs (5)
2 through (8) as paragraphs (4) through (7); and
3 (B) in paragraph (1)(F)(i), by striking
4 “(as defined in paragraph (5))” and inserting
5 “(as defined in paragraph (4))”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on January 1, 2021, and shall
8 apply to determinations of eligibility for, and the amount
9 of, widow's and widower's insurance benefits payable on
10 or after such date.

11 SEC. 3. INCREASE IN CHILD'S AGE LIMIT FOR CHILD-IN-
12 CARE BENEFITS.

13 (a) IN GENERAL.—Section 202(s)(1) of the Social
14 Security Act (42 U.S.C. 402(s)(1)) is amended by striking
15 “age of 16” and inserting “age of 18 (or, in the case of
16 a child who is a full-time elementary or secondary school
17 student, 19)”.
18

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall take effect on January 1, 2021, and shall
20 apply to determinations of eligibility for, and the amount
21 of, benefits payable on or after such date.

1 **SEC. 4. MODIFICATION OF BENEFIT LIMIT FOR WIDOWS,**
2 **WIDOWERS, AND SURVIVING DIVORCED**
3 **SPOUSES; INCREASE IN BENEFIT AMOUNT**
4 **FOR DELAY IN CLAIMING BENEFITS.**

5 (a) IN GENERAL.—Section 202 of the Social Security
6 Act (42 U.S.C. 402), as amended by section 2, is further
7 amended—

8 (1) in subsection (e)(2)—
9 (A) in subparagraph (A), by inserting
10 “subsection (aa), subsection (bb)” after “sub-
11 section (q);” and

12 (B) by amending subparagraph (D) to
13 read as follows:

14 “(D) Subject to subsections (aa) and (bb), if the de-
15 ceased individual (on the basis of whose wages and self-
16 employment income a widow or surviving divorced wife is
17 entitled to widow’s insurance benefits under this sub-
18 section) was, at any time, entitled to an old-age insurance
19 benefit which was reduced by reason of the application of
20 subsection (q), the widow’s insurance benefit of such
21 widow or surviving divorced wife for any month shall not
22 exceed the greater of—

23 “(i) amount of the old-age insurance benefit to
24 which such deceased individual would have been en-
25 titled (after application of subsection (q)) for such
26 month if such individual were still living and section

1 215(f)(5), 215(f)(6), or 215(f)(9)(B) were applied,
2 where applicable; and

3 “(ii) 82½ percent of the primary insurance
4 amount (as determined without regard to subpara-
5 graph (C)) of such deceased individual.”;

6 (2) in subsection (f)(2)—

7 (A) in subparagraph (A), by inserting
8 “subsection (aa), subsection (bb),” after “sub-
9 section (q),”; and

10 (B) by amending subparagraph (D) to
11 read as follows:

12 “(D) Subject to subsections (aa) and (bb), if the de-
13 ceased individual (on the basis of whose wages and self-
14 employment income a widower or surviving divorced hus-
15 band is entitled to widower’s insurance benefits under this
16 subsection) was, at any time, entitled to an old-age insur-
17 ance benefit which was reduced by reason of the applica-
18 tion of subsection (q), the widower’s insurance benefit of
19 such widower or surviving divorced husband for any month
20 shall not exceed the greater of—

21 “(i) amount of the old-age insurance benefit to
22 which such deceased individual would have been en-
23 titled (after application of subsection (q)) for such
24 month if such individual were still living and section

1 215(f)(5), 215(f)(6), or 215(f)(9)(B) were applied,
2 where applicable; and

3 “(ii) 82½ percent of the primary insurance
4 amount (as determined without regard to subpara-
5 graph (C)) of such deceased individual.”; and

6 (3) by adding at the end the following new sub-
7 sections:

8 “Increase Over Retirement Insurance Benefit Limit of
9 Widow’s and Widower’s Insurance Benefit Amounts
10 on Account of Delayed Receipt of Benefit

11 “(aa)(1) Subject to paragraph (6), the amount of a
12 widow’s or widower’s insurance benefit (other than a ben-
13 efit based on a primary insurance amount determined
14 under section 215(a)(3) as in effect in December 1978 or
15 section 215(a)(1)(C)(i) as in effect thereafter) which is
16 payable without regard to this subsection to an individual
17 who is described in paragraph (7) for a month shall be
18 increased by—

19 “(A) the applicable percentage (as determined
20 for the individual under paragraph (5)) of such
21 amount, multiplied by

22 “(B) the number (if any) of the increment
23 months for such individual.

24 “(2) For purposes of this subsection, the number of
25 increment months for any individual shall be a number

1 equal to the total number of months beginning on or after

2 January 1, 2021, during which—

3 “(A) the individual—

4 “(i) would have been entitled to a widow’s
5 or widower’s insurance benefit except that the
6 individual had not filed an application for such
7 benefit; or

8 “(ii) was entitled to a widow’s or widower’s
9 insurance benefit that the individual did not re-
10 ceive pursuant to a request under section
11 202(z) that such benefit not be paid;

12 “(B) the individual had attained early retire-
13 ment age (as defined in section 216(l)(2)); and

14 “(C) the individual was not under a penalty im-
15 posed under section 1129A.

16 “(3) For purposes of paragraph (1), a determination
17 of the total number of increment months for an individual
18 shall be made each time the individual becomes entitled
19 or re-entitled to a widow’s or widower’s insurance benefit
20 or begins receiving such a benefit after a period during
21 which the individual did not receive the benefit pursuant
22 to a request under section 202(z) that such benefit not
23 be paid.

24 “(4) This subsection shall be applied to a widow’s or
25 widower’s insurance benefit before any reduction under

1 this title except for the reduction under subparagraph (D)
2 of subsection (e)(2) or (f)(2) of section 202 (as applica-
3 ble).

4 “(5) For purposes of paragraph (1)(A), the applica-
5 ble percentage for an individual is a percentage equal to—

6 “(A) 28.5; divided by

7 “(B) the number of months between the month
8 in which the individual attains early retirement age
9 (as defined in section 216(l)(2)) and the month in
10 which the individual attains retirement age (as de-
11 fined in section 216(l)(1)).

12 “(6) In no case shall the amount of a widow or wid-
13 ower’s insurance benefit be increased under this sub-
14 section to an amount that exceeds the higher of—

15 “(A) the primary insurance amount of the de-
16 ceased individual on whose wages and self-employ-
17 ment income the widow’s or widower’s insurance
18 benefit is based; or

19 “(B) the amount of the old-age insurance ben-
20 efit to which such deceased individual would have
21 been entitled (after application of subsection (q)
22 and, where applicable, subsection (w)) for such
23 month if such individual were still living and section
24 215(f)(5), 215(f)(6), or 215(f)(9)(B) were applied,
25 where applicable.

1 “(7) An individual described in this section is an indi-
2 vidual who is entitled to a widow’s or widower’s insurance
3 benefit that is subject to reduction under subparagraph
4 (D) of subsection (e)(2) or (f)(2) of section 202 (as appli-
5 cable).

6 “Increase in Widow’s and Widower’s Insurance Benefit

7 Amounts on Account of Delayed Receipt of Benefit

8 “(bb)(1) Subject to paragraph (6), the amount of a
9 widow’s or widower’s insurance benefit (other than a ben-
10 efit based on a primary insurance amount determined
11 under section 215(a)(3) as in effect in December 1978 or
12 section 215(a)(1)(C)(i) as in effect thereafter) which is
13 payable without regard to this subsection to an individual
14 for a month shall be increased by—

15 “(A) the applicable percentage (as determined
16 for the individual under paragraph (5)) of such
17 amount, multiplied by

18 “(B) the number (if any) of the increment
19 months for such individual.

20 “(2) For purposes of this subsection, the number of
21 increment months for any individual shall be a number
22 equal to the total number of months beginning on or after
23 January 1, 2021, during which—

24 “(A) the individual—

1 “(i) would have been entitled to a widow’s
2 or widower’s insurance benefit except that the
3 individual had not filed an application for such
4 benefit; or

5 “(ii) was entitled to a widow’s or widower’s
6 insurance benefit that the individual did not re-
7 ceive pursuant to a request under section
8 202(z) that such benefit not be paid;

9 “(B) the individual had attained retirement age
10 (as defined in section 216(l)(1));

11 “(C) the individual was not under a penalty im-
12 posed under section 1129A; and

13 “(D) the individual—

14 “(i) is not an individual described in sub-
15 section (aa)(7); or

16 “(ii) is an individual—

17 “(I) who is described in subsection
18 (aa)(7); and

19 “(II) who, if the individual were enti-
20 tled to and did receive a widower’s or wid-
21 ower’s insurance benefit for the month,
22 would receive a benefit that would be in-
23 creased under subsection (aa) to the max-
24 imum amount permissible under paragraph
25 (6) of such subsection.

1 “(3) For purposes of paragraph (1), a determination
2 of the total number of increment months for an individual
3 shall be made each time the individual becomes entitled
4 or re-entitled to a widow’s or widower’s insurance benefit
5 or begins receiving such a benefit after a period during
6 which the individual did not receive the benefit pursuant
7 to a request under section 202(z) that such benefit not
8 be paid.

9 “(4) This subsection shall be applied to a widow’s or
10 widower’s insurance benefit—

11 “(A) after application of subsections (e)(2)(C),
12 (f)(2)(C), and (aa) (as applicable); and

13 “(B) before any other reduction under this title.

14 “(5) For purposes of paragraph (1)(A), the applica-
15 ble percentage for an individual is—

16 “(A) $\frac{1}{12}$ of 1 percent in the case of an indi-
17 vidual who attains early retirement age in any cal-
18 endar year before 1979;

19 “(B) $\frac{1}{4}$ of 1 percent in the case of an indi-
20 vidual who attains early retirement age in any cal-
21 endar year after 1978 and before 1987;

22 “(C) in the case of an individual who attains
23 early retirement age in a calendar year after 1986
24 and before 2005, a percentage equal to the applica-
25 ble percentage in effect under this subparagraph for

1 persons who attain early retirement age in the pre-
2 ceding calendar year (as increased pursuant to this
3 clause), plus $\frac{1}{24}$ of 1 percent if the calendar year
4 in which the individual involved attains early retire-
5 ment age is not evenly divisible by 2; and

6 “(D) $\frac{2}{3}$ of 1 percent in the case of an indi-
7 vidual who attains early retirement age in a calendar
8 year after 2004.

9 “(6) In no case shall the amount of a widow or wid-
10 ower’s insurance benefit be increased under this sub-
11 section to an amount that exceeds the maximum amount
12 to which the old age insurance benefit (as determined
13 without regard to subsection (w)) of the individual on
14 whose wages and self-employment income the widow’s or
15 widower’s insurance benefit is based could have been in-
16 creased under subsection (w).”.

17 (b) CONFORMING AMENDMENT.—Section
18 202(z)(1)(A) of the Social Security Act (42 U.S.C.
19 402(z)(1)(A)) is amended—

20 (1) in the matter preceding clause (i), by insert-
21 ing “and any individual who is entitled to widow’s
22 or widower’s insurance benefits at any age” before
23 “may request that”; and

24 (2) in clause (ii), by inserting “, or, in the case
25 of an individual entitled to a widow’s or widower’s

1 insurance benefit, the first month in which, if the in-
2 dividual filed an application for such benefit or re-
3 quested that such benefit be resumed in such month,
4 the amount of such benefit would be equal to the
5 maximum amount permissible under subsection
6 (aa)(7)" before the period.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 2021, and shall
9 apply to the determination of the amount of widow's and
10 widower's insurance benefits payable on or after such
11 date.

12 **SEC. 5. HOLDING CURRENT BENEFICIARIES HARMLESS.**

13 (a) IN GENERAL.—In the case of an individual who
14 is receiving benefits or assistance under any Federal pro-
15 gram or under any State or local program financed in
16 whole or in part with Federal funds as of the date on
17 which the amendments made by this Act take effect, the
18 amount of any additional income that is attributable to
19 an increase in benefits under title II of the Social Security
20 Act (42 U.S.C. 401 et seq.) or to new eligibility for bene-
21 fits under such title that results from the amendments
22 made by this Act shall be disregarded for the purpose of
23 determining such individual's continued eligibility for, and
24 amount of, benefits or assistance under such Federal,
25 State, or local program.

1 (b) LIMITATION.—In the case of an individual de-
2 scribed in subsection (a) who, after the date on which the
3 amendments made by this Act take effect, ceases to be
4 eligible for benefits or assistance under a Federal, State,
5 or local program described in such subsection, such sub-
6 section shall not apply to such individual for purposes of
7 such program beginning on the date that such individual
8 ceases to be so eligible.

9 SEC. 6. PROVISION OF INFORMATION TO WIDOWS, WID-
10 OWERS, AND SURVIVING DIVORCED SPOUSES.

11 (a) IN GENERAL.—Not later than January 1, 2021,
12 the Commissioner of Social Security shall publish a book-
13 let containing information related to benefits available
14 under title II of the Social Security Act to widows, wid-
15 ows, and surviving divorced spouses, including informa-
16 tion on—

24 (b) PROVISION OF BOOKLET TO WIDOWS, WID-
25 OWERS, AND SURVIVING DIVORCED SPOUSES.—In the

1 case of any individual who dies on or after January 1,
2 2021, the Commissioner of Social Security shall, not later
3 than 30 days after the Social Security Administration is
4 informed of the death of such individual, mail a copy of
5 the booklet described in subsection (a) to each widow, wid-
6 ower, or surviving divorced spouse of the individual who
7 is known to the Social Security Administration (based on
8 the records of the Social Security Administration).

○