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

MAY 20, 2021

Mr. CASEY (for himself, Mrs. MURRAY, Ms. KLOBUCHAR, Mr. BLUMENTHAL, and Mrs. GILLIBRAND) 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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surviving Widow(er)

Income Fair Treatment Act of 2021”, or the “SWIFT

Act”.

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Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

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Income Fair Treatment Act of 2021”, or the “SWIFT

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Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SEC. 2. ELIGIBILITY FOR UNREDUCED SURVIVORS BENEFITS FOR WIDOWS, WIDOWERS, AND SURVIVING DIVORCED SPOUSES WITH DISABILITIES AT ANY AGE.

(a) In general.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended—

(1) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (B)(ii)—

(I) by striking “has attained age 50 but has not attained age 60 and’’; and

(II) by striking “which began before the end of the period specified in paragraph (4)”;

and

(II) by striking “which began before the end of the period specified in paragraph (4)”;

and

(ii) in subparagraph (F)(ii), by striking “(I) in the period specified in paragraph (4) and (II)”;

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

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

(C) by striking paragraph (4); and
(D) in paragraph (5)(A), by amending clause (ii) to read as follows:

“(ii) which begins not earlier than the first day of the seventeenth month before the month in which her application is filed.”; and

(2) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (B)(ii)—

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

and

(II) by striking “which began before the end of the period specified in paragraph (4)”; and

(ii) in subparagraph (F)(ii), by striking “(I) in the period specified in paragraph (4) and (II)”;

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

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

(C) by striking paragraph (4); and
(D) in paragraph (5)(A), by amending clause (ii) to read as follows:

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

(b) Elimination of Reduction of Benefit Amounts for Benefits Claimed by Widows, Widowers, and Surviving Divorced Spouses With Disabilities Before Retirement Age.—Section 202(q) of the Social Security Act (42 U.S.C. 402(q)) is amended—

(1) in paragraph (3)(A), by striking “and has attained age 62” and all that follows through “widower’s insurance benefit)” and inserting “and, in the case of a wife’s or husband’s insurance benefit, has attained age 62”;

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

“(E) No widow’s or widower’s insurance benefit shall be reduced under this subsection for any month during which the individual entitled to such benefit is entitled to the benefit on the basis of paragraph (1)(B)(ii) of subsection (e) (in the case of a widow’s insurance benefit) or paragraph (1)(B)(ii) of subsection (f) (in the case of a widower’s insurance benefit).”; and
(3) in paragraph (7)—

(A) in subparagraph (E), by striking “benefits, 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 insurance benefit—

“(i) any month in which there was no reduction 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.”.

(e) TECHNICAL AMENDMENTS.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (5) through (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)—
(A) by redesignating paragraphs (5) through (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))”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2022, and shall apply to determinations of eligibility for, and the amount of, widow’s and widower’s insurance benefits payable on or after such date.

SEC. 3. INCREASE IN CHILD’S AGE LIMIT FOR CHILD-IN-CARE BENEFITS.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2022, and shall apply to determinations of eligibility for, and the amount of, benefits payable on or after such date.
SEC. 4. MODIFICATION OF BENEFIT LIMIT FOR WIDOWS,
WIDOWERS, AND SURVIVING DIVORCED
SPOUSES; INCREASE IN BENEFIT AMOUNT
FOR DELAY IN CLAIMING BENEFITS.

(a) In General.—Section 202 of the Social Security
Act (42 U.S.C. 402), as amended by section 2, is further
amended—

(1) in subsection (e)(2)—

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

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

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

“(i) amount of the old-age insurance benefit to
which such deceased individual would have been en-
titled (after application of subsection (q)) for such
month if such individual were still living and section
215(f)(5), 215(f)(6), or 215(f)(9)(B) were applied, where applicable; and

“(ii) 82 1⁄2 percent of the primary insurance amount (as determined without regard to subparagraph (C)) of such deceased individual.”;

(2) in subsection (f)(2)—

(A) in subparagraph (A), by inserting “subsection (aa), subsection (bb),” after “subsection (q),”; and

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

“(D) Subject to subsections (aa) and (bb), if the deceased individual (on the basis of whose wages and self-employment income a widower or surviving divorced husband is entitled to widower’s insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widower’s insurance benefit of such widower or surviving divorced husband for any month shall not exceed the greater of—

“(i) amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living and section
215(f)(5), 215(f)(6), or 215(f)(9)(B) were applied, where applicable; and

“(ii) 82 1⁄2 percent of the primary insurance amount (as determined without regard to subparagraph (C)) of such deceased individual.”; and

(3) by adding at the end the following new subsections:

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

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

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

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

“(2) For purposes of this subsection, the number of increment months for any individual shall be a number
equal to the total number of months beginning on or after January 1, 2022, during which—

“(A) the individual—

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

“(ii) was entitled to a widow’s or widower’s insurance benefit that the individual did not receive pursuant to a request under section 202(z) that such benefit not be paid;

“(B) the individual had attained early retirement age (as defined in section 216(l)(2)); and

“(C) the individual was not under a penalty imposed under section 1129A.

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

“(4) This subsection shall be applied to a widow’s or widower’s insurance benefit before any reduction under
this title except for the reduction under subparagraph (D) of subsection (e)(2) or (f)(2) of section 202 (as applicable).

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

“(A) 28.5; divided by

“(B) the number of months between the month in which the individual attains early retirement age (as defined in section 216(l)(2)) and the month in which the individual attains retirement age (as defined in section 216(l)(1)).

“(6) In no case shall the amount of a widow or widower’s insurance benefit be increased under this subsection to an amount that exceeds the higher of—

“(A) the primary insurance amount of the deceased individual on whose wages and self-employment income the widow’s or widower’s insurance benefit is based; or

“(B) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q) and, where applicable, subsection (w)) for such month if such individual were still living and section 215(f)(5), 215(f)(6), or 215(f)(9)(B) were applied, where applicable.
“(7) An individual described in this section is an individual who is entitled to a widow’s or widower’s insurance benefit that is subject to reduction under subparagraph (D) of subsection (e)(2) or (f)(2) of section 202 (as applicable).

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

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

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

“(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of months beginning on or after January 1, 2022, during which—

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

“(ii) was entitled to a widow’s or widower’s insurance benefit that the individual did not receive pursuant to a request under section 202(z) that such benefit not be paid;

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

“(C) the individual was not under a penalty imposed under section 1129A; and

“(D) the individual—

“(i) is not an individual described in subsection (aa)(7); or

“(ii) is an individual—

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

“(II) who, if the individual were entitled to and did receive a widower’s or widower’s insurance benefit for the month, would receive a benefit that would be increased under subsection (aa) to the maximum amount permissible under paragraph (6) of such subsection.
“(3) For purposes of paragraph (1), a determination of the total number of increment months for an individual shall be made each time the individual becomes entitled or re-entitled to a widow’s or widower’s insurance benefit or begins receiving such a benefit after a period during which the individual did not receive the benefit pursuant to a request under section 202(z) that such benefit not be paid.

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

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

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

“(5) For purposes of paragraph (1)(A), the applicable percentage for an individual is—

“(A) \(\frac{1}{12}\) of 1 percent in the case of an individual who attains early retirement age in any calendar year before 1979;

“(B) \(\frac{1}{4}\) of 1 percent in the case of an individual who attains early retirement age in any calendar year after 1978 and before 1987;

“(C) in the case of an individual who attains early retirement age in a calendar year after 1986 and before 2005, a percentage equal to the applicable percentage in effect under this subparagraph for
persons who attain early retirement age in the pre-
ceeding calendar year (as increased pursuant to this
clause), plus $\frac{1}{24}$ of 1 percent if the calendar year
in which the individual involved attains early retire-
ment age is not evenly divisible by 2; and

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

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

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

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

(2) in clause (ii), by inserting “, or, in the case
of an individual entitled to a widow’s or widower’s
insurance benefit, the first month in which, if the individual filed an application for such benefit or requested that such benefit be resumed in such month, the amount of such benefit would be equal to the maximum amount permissible under subsection (aa)(7)” before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2022, and shall apply to the determination of the amount of widow’s and widower’s insurance benefits payable on or after such date.

SEC. 5. HOLDING CURRENT BENEFICIARIES HARMLESS.

(a) IN GENERAL.—In the case of an individual who is receiving benefits or assistance under any Federal program or under any State or local program financed in whole or in part with Federal funds as of the date on which the amendments made by this Act take effect, the amount of any additional income that is attributable to an increase in benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) or to new eligibility for benefits under such title that results from the amendments made by this Act shall be disregarded for the purpose of determining such individual’s continued eligibility for, and amount of, benefits or assistance under such Federal, State, or local program.
(b) LIMITATION.—In the case of an individual described in subsection (a) who, after the date on which the amendments made by this Act take effect, ceases to be eligible for benefits or assistance under a Federal, State, or local program described in such subsection, such subsection shall not apply to such individual for purposes of such program beginning on the date that such individual ceases to be so eligible.

SEC. 6. PROVISION OF INFORMATION TO WIDOWS, WIDowers, AND SURVIVING DIVORCED SPOUSES.

(a) In General.—Not later than January 1, 2022, the Commissioner of Social Security shall publish a booklet containing information related to benefits available under title II of the Social Security Act to widows, widowers, and surviving divorced spouses, including information on—

(1) how old-age insurance benefits and survivors insurance benefits interact with each other;

(2) how to claim benefits, and how the timing of claiming benefits can impact benefit amounts;

(3) the lump sum death benefit; and

(4) how to contact the Social Security Administration for additional information.

(b) Provision of Booklet to Widows, Widowers, and Surviving Divorced Spouses.—In the
case of any individual who dies on or after January 1, 2022, the Commissioner of Social Security shall, not later than 30 days after the Social Security Administration is informed of the death of such individual, mail a copy of the booklet described in subsection (a) to each widow, widower, or surviving divorced spouse of the individual who is known to the Social Security Administration (based on the records of the Social Security Administration).