

APPROVED
JUL 14 1976

87/14/76

THE WHITE HOUSE
WASHINGTON
July 13, 1976

ACTION
Last Day: July 17

Posted
7/15/76

archives
7/15/76

MEMORANDUM FOR
FROM:
SUBJECT:

THE PRESIDENT
JIM CANNON *JAC*
H.R. 4829 - For the Relief
of Leah Maureen Anderson

Attached for your consideration is H.R. 4829, sponsored by Representative Rose.

The enrolled bill would waive the applicable statute of limitations to permit the Secretary of the Army to consider the claims of Leah Maureen Anderson for injuries sustained in an automobile accident.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 4829 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4829 - For the relief
of Leah Maureen Anderson
Sponsor - Rep. Rose (D) North Carolina

Last Day for Action

July 17, 1976 - Saturday

Purpose

Waives the applicable statute of limitations to permit the Secretary of the Army to consider the claims of Leah Maureen Anderson for injuries sustained in an automobile accident. If the claim is not settled administratively, the bill would permit a suit to be brought in a United States District Court.

Agency Recommendations

| | |
|---------------------------------|--------------|
| Office of Management and Budget | Approval |
| Department of the Army | No objection |
| Department of Justice | No objection |

Discussion

In 1971, Leah Maureen Anderson, who was then five years of age, was seriously injured when an Army vehicle operated by a military member struck the car in which she was riding. Another passenger in the car, Mrs. Maria Davidson, was killed.

Following the accident, a timely claim was filed under the appropriate statute on behalf of the deceased woman, and an award was made by the Army.

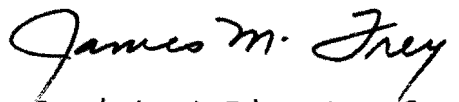
The attorney representing Leah Anderson, however, failed to file a claim within the applicable two-year statute of limitations.

The enrolled bill provides that, notwithstanding any time limitations, the Secretary of the Army shall receive and consider Leah Anderson's claims arising from the 1971 accident, provided such claims are presented in writing within six months of the date of enactment. It would further permit a suit to be filed in a United States District Court, in accordance with otherwise applicable law, if such action is begun within six months after final denial of her claims or if an offer of settlement is not accepted.

In its report to the House Judiciary Committee on similar legislation introduced in the 93rd Congress, the Army stated:

"Although the Department is generally opposed to the waiver of the statute of limitations, it would be equitable to make an exception in this bill for two reasons. The Government will not be prejudiced in adjudicating the claim because the accident was thoroughly investigated and the facts were fully developed in the companion claim involving the deceased Mrs. Davidson. The second compelling reason for the waiver is based upon the fact that the delay of an attorney in filing a claim should not be attributed to a five year old under the tragic circumstances of this case."

The enrolled bill incorporates the substance of amendments Army proposed in its report on the earlier bill.


Assistant Director for
Legislative Reference

Enclosure

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 12

Time: 530pm

FOR ACTION:

Max Friedersdorf
Ken Lasarus *KL*

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmulz

FROM THE STAFF SECRETARY

DUE: Date: July 12

Time: 500pm

SUBJECT:

HR 4829 - for the relief of Leah Maureen Anderson

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

7 JUL 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Washington, DC 20403

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of the Army on enrolled enactment H. R. 4829, 94th Congress, "For the relief of Leah Maureen Anderson."

The Department of the Army is not opposed to the enrolled enactment.

On 26 March 1971, Leah Maureen Anderson, then five years of age, was seriously injured in an automobile accident on Fort Bragg, North Carolina. The drivers of the two automobiles involved were service members of the Army. Miss Anderson's attorney filed a claim under the Federal Tort Claims Act (28 U.S.C. 2671-2680), in his client's behalf on 19 February 1974, nearly a year after the two year statute of limitations had run. This act provides for waiver of that or any period of statute of limitations or lapse of time, and allows Miss Anderson to file a claim with the Secretary of the Army and subsequently, if necessary, to file suit in a United States District Court.

Extenuating circumstances favoring Miss Anderson's case support an exception to the statutory time limit for the late filing of her tort claim.

The fiscal effects of this legislation are not known to the Department of the Army.

Sincerely,

A handwritten signature in dark ink, appearing to read "H. A. Hull", is written over the typed name.

Hadlai A. Hull
Assistant Secretary of the Army
(Financial Management)

Department of Justice
Washington, D.C. 20530

July 7, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill, H.R. 4829, a bill "For the relief of Leah Maureen Anderson.

This Act would confer jurisdiction upon the Secretary of the Army to receive, consider and determine any claim against the United States with respect to injuries suffered by Leah Maureen Anderson in an accident on March 26, 1971, if such claim is presented within six months of the enactment of this Act. If the claim is denied, or not determined within six months, then suit may be brought in a United States District Court.

This Act would waive the provisions of the applicable two year statute of limitations (28 U.S.C. 2401(b)).

Although the Department of Justice normally opposes private relief legislation waiving statutes of limitations, we understand that the Department of the Army, recognizing the equitable considerations present in this case, has no objection to the enactment of the bill. The Department of Justice defers to the Department of the Army and therefore has no objections to the enactment of this legislation.

Sincerely,



MICHAEL M. UHLMANN
Assistant Attorney General

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4829 - For the relief
of Leah Maureen Anderson
Sponsor - Rep. Rose (D) North Carolina

Last Day for Action

July 17, 1976 - Saturday

Purpose

Waives the applicable statute of limitations to permit the Secretary of the Army to consider the claims of Leah Maureen Anderson for injuries sustained in an automobile accident. If the claim is not settled administratively, the bill would permit a suit to be brought in a United States District Court.

Agency Recommendations

| | |
|---------------------------------|--------------|
| Office of Management and Budget | Approval |
| Department of the Army | No objection |
| Department of Justice | No objection |

Discussion

In 1971, Leah Maureen Anderson, who was then five years of age, was seriously injured when an Army vehicle operated by a military member struck the car in which she was riding. Another passenger in the car, Mrs. Maria Davidson, was killed.

Following the accident, a timely claim was filed under the appropriate statute on behalf of the deceased woman, and an award was made by the Army.



To -
J. Cannon
7-12-76
5:00 p.m.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 12

Time: 530pm

FOR ACTION: Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 13

Time: 500pm

SUBJECT:

HR 4829 - for the relief of Leah Maureen Anderson

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection -- Ken Lazarus 7/13/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

July 13, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.G.*
SUBJECT: HR 4829 - for the relief of Leah Maureen Anderson

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

LEAH MAUREEN ANDERSON

JULY 31, 1975.—Committed to the Committee of the Whole House and
ordered to be printed

Mr. MOORHEAD of California, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 4829]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4829) for the relief of Leah Maureen Anderson, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to confer jurisdiction on a district court and waive lapse of time, bars of laches, or any proceeding to permit a court to consider a claim filed on behalf of Leah Maureen Anderson of Hopkinsville, Kentucky, against the United States for compensation for personal injury, and expenses and damages sustained by her due to a collision on March 26, 1971, between a Department of the Army truck and the automobile in which she was a passenger on the Fort Bragg Military Reservation, North Carolina.

STATEMENT

The Department of the Army in the report on an earlier bill stated that it would have no objection to the bill providing for jurisdiction in a district court under applicable provisions of the Federal Tort Claims Act containing language which would provide for prior administrative consideration of the claim under applicable tort claims provisions of Title 28. The bill in the current Congress provides for such administrative consideration.

On March 26, 1971, at 2:45 P.M., Sergeant Walter H. Henderson, then 31 years old, was driving a private car at Fort Bragg, North Carolina, south on Sixth Street. He had two passengers, Mrs. Maria L. Davidson, age 37, and Leah M. Anderson (the present claimant), who was then five years of age. Private Johnnie O. Evans, age 18, was op-

erating an Army vehicle and was proceeding in an easterly direction on C Street. Neither street had stop or warning signs. Sergeant Richardson was on the dominant road. At the time of the accident, it was raining and the roads were wet. When Richardson was in the intersection of Sixth and C Streets, Private Evans' vehicle struck the right side of Sergeant Richardson's car.

The impact demolished Sergeant Richardson's car and injured all of the occupants. Mrs. Davidson was dead at the time of arrival at Womack Army Hospital, Fort Bragg. Leah Anderson suffered a compound depressed skull fracture with dural and cortical lacerations, severe head injuries, and fracture of the right femur. Sergeant Richardson was treated for minor injuries and released.

A claim was filed on a timely basis on behalf of the deceased Mrs. Davidson and an award was made by the Chief, Army Claims Service. However, Leah Anderson was represented by a different attorney and he did not file a claim until February 19, 1974. On April 2, 1974, the Chief of the U.S. Army Claims Service denied the claim because it was cognizable only under the provisions of the Federal Tort Claims Act (28 USC 2671-2680) and the two year statute of limitations prescribed by the Act had expired (28 U.S.C. 2401(b)).

In indicating that it would not oppose relief, the Army report stated:

Although the Department is generally opposed to the waiver of the statute of limitations, it would be equitable to make an exception in this bill for two reasons. The Government will not be prejudiced in adjudicating the claim because the accident was thoroughly investigated and the facts were fully developed in the companion claim involving the deceased Mrs. Davidson. The second compelling reason for the waiver is based upon the fact that the delay of an attorney in filing a claim should not be attributed to a five year old under the tragic circumstances of this case.

The Committee agrees that legislative relief is merited in this instance in the interest of justice and recommends that the bill be considered favorably.

DEPARTMENT OF THE ARMY,
Washington, D.C., August 14, 1974.

HON. PETER W. RODINO, JR.
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 15817, 93d Congress, a bill "For the relief of Leah Maureen Anderson."

The bill provides: "That, notwithstanding any statute of limitations, lapse of time, bars of laches, or any proceeding, jurisdiction is hereby conferred upon the United States District Court for the District of North Carolina, to hear, determine, and render judgment upon any claim filed on behalf of Leah Maureen Anderson of Hopkinsville, Kentucky, against the United States for compensation for personal injury, and expenses and damages sustained by her due to a collision on March 26, 1971, between a Department of the Army truck

and the automobile in which she was a passenger on the Fort Bragg Military Reservation, North Carolina, such collision having occurred as the result of the alleged negligent operation of the truck by United States Army personnel while acting within the scope of their Federal employment."

The records of the Department of the Army disclose the following facts.

On March 26, 1971, at 1445 hours Sergeant Walter H. Richardson, age 31, was operating a passenger vehicle at Fort Bragg, North Carolina, in a southerly direction on Sixth Street. He had two passengers, Mrs. Maria L. Davidson, age 37, and Leah M. Anderson (the present claimant), who was then five years of age. Private Johnnie O. Evans, age 18, was operating an Army vehicle and was proceeding in an easterly direction on C Street. Neither street had stop or warning signs. Sergeant Richardson was on the dominant road. At the time of the accident it was raining and the roads were wet. When Richardson was in the intersection of Sixth and C Streets, Private Evans' vehicle struck the right side of Sergeant Richardson's car.

The impact demolished Sergeant Richardson's car and injured all of the occupants. Mrs. Davidson was dead at the time of arrival at Womack Army Hospital, Fort Bragg. Leah Anderson was found to have suffered a compound depressed skull fracture with dural and cortical lacerations, severe head injuries, and fracture of the right femur. Sergeant Richardson was treated for minor injuries and released.

A claim was filed on a timely basis on behalf of the deceased Mrs. Davidson and an award was made by the Chief, Army Claims Service. However, Leah Anderson was represented by a different attorney and he did not file a claim until February 19, 1974. On April 2, 1974, the Chief of the U.S. Army Claims Service denied the claim because it was cognizable only under the provisions of the Federal Tort Claims Act (28 U.S.C. 2671-2680) and the two year statute of limitations prescribed by the Act had expired (28 U.S.C. 2401(b)).

The Department of the Army is not opposed to the bill.

Although the Department is generally opposed to the waiver of the statute of limitations, it would be equitable to make an exception in this bill for two reasons. The Government will not be prejudiced in adjudicating the claim because the accident was thoroughly investigated and the facts were fully developed in the companion claim involving the deceased Mrs. Davidson. The second compelling reason for the waiver is based upon the fact that the delay of an attorney in filing a claim should not be attributed to a five year old under the tragic circumstances of this case.

It is the opinion of the Department, however, that the bill should be amended to provide that upon the waiver of the statute of limitations, the claim should be adjudicated under the remaining provisions of the Federal Tort Claims Act. This procedure would enable the claimant to seek administrative relief and if she is successful, time consuming and costly litigation would be avoided. An amended bill has been prepared and it is enclosed for the consideration of your Committee.

The cost of the bill cannot be determined.

The Office of Management and Budget advises that, from the viewpoint of the Administration's program, there is no objection to the presentation of the report for the consideration of the Committee.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

Enclosure: Amended bill.

PROPOSED AMENDED BILL FOR THE RELIEF OF LEAH MAUREEN ANDERSON,
H.R. 15817

That notwithstanding any statute of limitations, lapse of time, bars of laches, or any proceeding, jurisdiction is hereby conferred upon the Secretary of the Army and the United States District Court for the District of North Carolina to receive and adjudicate under the provisions of 28 U.S.C. 2401, 2672, any claim upon behalf of Leah Maureen Anderson of Hopkinsville, Kentucky, for compensation for personal injury, and expenses and damages sustained by her due to a collision on March 26, 1971, between a Department of the Army vehicle and the automobile in which she was a passenger on the Fort Bragg Military Reservation, North Carolina, such collision having occurred as the result of the alleged negligent operation of the truck by United States Army personnel while acting within the alleged scope of their Federal employment. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

Sec. 2. Such claim shall be filed with the Secretary of the Army, or his designee, no later than six months after the date of the enactment of this Act. In the event that an offer of settlement, if any, is not accepted on behalf of the aforesaid Leah Maureen Anderson, suit may be filed in the Federal District Court no later than six months after the Secretary of the Army, or his designee, has mailed a notice of final disposition of the claim to the representatives of Leah Maureen Anderson.

○

LEAH MAUREEN ANDERSON

JUNE 29 (legislative day, JUNE 18), 1976.—Ordered to be printed

Mr. PHILIP A. HART, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 4829]

The Committee on the Judiciary, to which was referred the bill (H.R. 4829), for the relief of Leah Maureen Anderson, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to waive the statute of limitations which presently bars any action under the Federal Tort Claims Act which Leah Maureen Anderson may file against the U.S. Government for compensation for injuries she sustained as the result of a collision on March 26, 1971, between a Department of the Army vehicle and the automobile in which she was a passenger on the Fort Bragg Military Reservation, N.C.

STATEMENT

The facts of this case, as contained in House Report No. 94-434, are as follows:

On March 26, 1971, at 2:45 P.M., Sergeant Walter H. Henderson, then 31 years old, was driving a private car at Fort Bragg, North Carolina, south on Sixth Street. He had two passengers, Mrs. Maria L. Davidson, age 37, and Leah M. Anderson (the present claimant), who was then five years of age. Private Johnnie O. Evans, age 18, was operating an Army vehicle and was proceeding in an easterly direction on C Street. Neither street had stop or warning signs. Sergeant Richardson was on the dominant road. At

the time of the accident, it was raining and the roads were wet. When Richardson was in the intersection of Sixth and C Street, Private Evans' vehicle struck the right side of Sergeant Richardson's car.

The impact demolished Sergeant Richardson's car and injured all of the occupants. Mrs. Davidson was dead at the time of arrival at Womack Army Hospital, Fort Bragg. Leah Anderson suffered a compound depressed skull fracture with dural and cortical lacerations, severe head injuries, and fracture of the right femur. Sergeant Richardson was treated for minor injuries and released.

A claim was filed on a timely basis on behalf of the deceased Mrs. Davidson and an award was made by the Chief, Army Claims Service. However, Leah Anderson was represented by a different attorney and he did not file a claim until February 19, 1974. On April 2, 1974, the Chief of the U.S. Army Claims Service denied the claim because it was cognizable only under the provisions of the Federal Tort Claims Act (28 USC 2671-2680) and the two year statute of limitations prescribed by the Act had expired (28 U.S.C. 2401(b)).

In indicating that it would not oppose relief, the Army report stated:

Although the Department is generally opposed to the waiver of the statute of limitations, it would be equitable to make an exception in this bill for two reasons. The Government will not be prejudiced in adjudicating the claim because the accident was thoroughly investigated and the facts were fully developed in the companion claim involving the deceased Mrs. Davidson. The second compelling reason for the waiver is based upon the fact that the delay of an attorney in filing a claim should not be attributed to a five year old under the tragic circumstances of this case.

The Committee agrees that legislative relief is merited in this instance in the interest of justice and recommends that the bill be considered favorably.

In agreement with the views of the House of Representatives, the Committee recommends that H.R. 4829 be favorably considered. It is noted that the Senate passed a similar bill in the 93rd Congress, but the House took no action on that legislation.

Attached to and made a part of this report is the Department of the Army report.

DEPARTMENT OF THE ARMY,
Washington, D.C., August 14, 1974.

HON. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 15817, 93d Congress, a bill "For the relief of Leah Maureen Anderson."

The bill provides: "That, notwithstanding any statute of limitations, lapse of time, bars of laches, or any proceeding, jurisdiction is hereby conferred upon the United States District Court for the Dis-

trict of North Carolina, to hear, determine, and render judgment upon any claim filed on behalf of Leah Maureen Anderson of Hopkinsville, Kentucky, against the United States for compensation for personal injury, and expenses and damages sustained by her due to a collision on March 26, 1971, between a Department of the Army truck and the automobile in which she was a passenger on the Fort Bragg Military Reservation, North Carolina, such collision having occurred as the result of the alleged negligent operation of the truck by United States Army personnel while acting within the scope of their Federal employment."

The records of the Department of the Army disclose the following facts.

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The Department of the Army is not opposed to the bill.

Although the Department is generally opposed to the waiver of the statute of limitations, it would be equitable to make an exception in this bill for two reasons. The Government will not be prejudiced in adjudicating the claim because the accident was thoroughly investigated and the facts were fully developed in the companion claim involving the deceased Mrs. Davidson. The second compelling reason for the waiver is based upon the fact that the delay of an attorney in filing a claim should not be attributed to a five year old under the tragic circumstances of this case.

It is of the opinion of the Department, however, that the bill should be amended to provide that upon the waiver of the statute of limitations, the claim should be adjudicated under the remaining provisions of the Federal Tort Claims Act. This procedure would enable the claimant to seek administrative relief and if she is successful, time

consuming and costly litigation would be avoided. An amended bill has been prepared and it is enclosed for the consideration of your Committee.

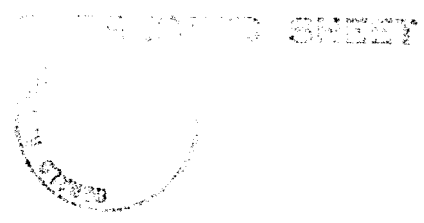
The cost of the bill cannot be determined.

The Office of Management and Budget advises that, from the viewpoint of the Administration's program, there is no objection to the presentation of the report for the consideration of the Committee.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

()



Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

For the relief of Leah Maureen Anderson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 2401(b) of title 28, United States Code, or any period of limitation or lapse of time—

(1) the Secretary of the Army shall receive, consider, and determine any claim against the United States with respect to the injuries sustained by Leah Maureen Anderson of Hopkinsville, Kentucky, in an accident on March 26, 1971, at the Fort Bragg Military Reservation, North Carolina, involving a motor vehicle occupied by Leah Maureen Anderson and a motor vehicle of the United States Army driven by a member of the United States Army, if such claim is presented in writing to such Secretary within six months after the date of the enactment of this Act; and

(2) an action with respect to such injuries may be begun in a United States district court, in accordance with otherwise applicable law, within six months after—

(A) the date of receipt, if any, of any mail containing a final denial of such claim by such Secretary,

(B) the date of a final denial, if any, of such claim by such Secretary as a result of the operation of the second sentence of section 2675(a) of title 28, United States Code, or

(C) the date on which the claimant notifies such Secretary that his offer of settlement, if any, is not accepted,

whichever occurs first.

SEC. 2. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*