

119TH CONGRESS
1ST SESSION

S. 988

To amend the Employee Retirement Income Security Act of 1974 to provide for greater spousal protection under defined contribution plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2025

Ms. BALDWIN (for herself, Mrs. MURRAY, Ms. CANTWELL, Mr. BLUMENTHAL, Ms. HIRONO, Ms. KLOBUCHAR, Mr. SANDERS, Mr. WYDEN, Mr. VAN HOLLEN, Mr. KAINE, Ms. WARREN, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement Income Security Act of 1974 to provide for greater spousal protection under defined contribution plans, 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 “Women’s Retirement
5 Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Approximately 28 percent of non-retired
2 adults have no defined benefit plan or retirement
3 savings, according to 2023 data from the Board of
4 Governors of the Federal Reserve System.

5 (2) In 2023, approximately $\frac{1}{3}$ of the private
6 sector workforce did not have access to a retirement
7 plan at the workplace, and only half of the workforce
8 actually participated in a retirement plan.

9 (3) Women's retirement preparedness often lags
10 significantly behind their male counterparts', result-
11 ing in the median income for women aged 65 and
12 older in 2022 being just 83 percent of the median
13 income of men aged 65 and older, including income
14 from social security, pension plans, investments, and
15 earnings.

16 (4) Women aged 80 and older had the highest
17 poverty rate among older persons in all age groups,
18 with 14.7 percent of women aged 80 and older living
19 in poverty while 10.3 percent of men in the same
20 age group live in poverty.

21 (5) Women make up two-thirds of low-wage
22 workers, even though they comprise less than half of
23 all workers, and low-wage workers are less likely
24 than other workers to participate in a retirement
25 plan at work.

1 (6) Because of the pay gap, women working
2 full-time, year-round typically lose \$398,160 over a
3 40-year career thereby requiring the average woman
4 to work almost a decade longer than her male coun-
5 terpart to make up that career wage gap.

6 (7) Due to the lower lifetime wages stemming
7 from unequal pay and caregiving duties, the average
8 Social Security benefit in 2023 for a woman was
9 \$1,638 a month, while for men such average month-
10 ly benefit was \$2,020.

11 (8) While the SECURE 2.0 Act of 2022 (Pub-
12 lic Law 117–328) goes a long way to address this
13 coverage gap, just 1 in 5 part-time workers who
14 work a full year are eligible for a retirement plan,
15 and women are almost twice as likely to work part-
16 time as men.

17 (9) While traditional defined benefit retirement
18 plans have spousal protections, defined contribution
19 retirement plans, which have become increasingly
20 common, currently provide no similar spousal protec-
21 tions.

22 (10) The Thrift Savings Plan of the Federal
23 Government, the largest defined contribution plan in
24 the world with approximately 6,500,000 partici-

1 pants, requires its married participants to have their
 2 spouses' consent for withdrawals and loans.

3 (11) There were almost 990,000 divorces in the
 4 United States between 2020 and 2021. After the
 5 family home, retirement savings tends to be the larg-
 6 est asset to be divided in a divorce.

7 (12) While fees and expenses associated with
 8 retirement plans have been in decline, participants
 9 have seen direct charges for processing qualified do-
 10 mestic relations orders increase significantly.

11 **SEC. 3. INCREASING SPOUSAL PROTECTION UNDER DE-**
 12 **FINED CONTRIBUTION PLANS.**

13 (a) AMENDMENT OF EMPLOYEE RETIREMENT IN-
 14 COME SECURITY ACT OF 1974.—

15 (1) IN GENERAL.—Part 2 of subtitle B of title
 16 I of the Employee Retirement Income Security Act
 17 of 1974 (29 U.S.C. 1051 et seq.) is amended by in-
 18 serting after section 205 the following new section:

19 **“SEC. 205A. ADDITIONAL SPOUSAL CONSENT REQUIRE-**
 20 **MENTS.**

21 “(a) IN GENERAL.—Each individual account plan to
 22 which section 205 does not apply shall provide that, except
 23 as provided in subsections (c) and (d), no distribution may
 24 be made under the plan unless the spousal consent re-
 25 quirements of subsection (e) are met.

1 “(b) COORDINATION WITH SECTION 205.—Nothing
2 in this section shall be construed to exempt an individual
3 account plan from the requirements of section 205 with
4 respect to any participant.

5 “(c) EXCEPTIONS FOR CERTAIN DISTRIBUTIONS.—
6 Subsection (a) shall not apply to—

7 “(1) any distribution that is—

8 “(A) a minimum required distribution de-
9 scribed in section 4974(b) of the Internal Rev-
10 enue Code of 1986;

11 “(B) permitted under section 203(e)(1) to
12 be made without the consent of the participant;
13 or

14 “(C) in an amount that is less than 25
15 percent of the account balance, but not more
16 than once per account;

17 “(2) any distribution in the form of a qualified
18 joint and survivor annuity (as defined in section
19 205(d)(1)), a qualified optional survivor annuity (as
20 defined in section 205(d)(2)), a qualified preretire-
21 ment survivor annuity (as defined in section 205(e)),
22 or a series of substantially equal periodic payments
23 (not less frequently than annually) made for the
24 joint lives (or life expectancies) of the participant
25 and the participant’s spouse; or

1 “(3) in the case of a participant who does not
 2 elect a form of benefit described in paragraph (2)
 3 under the plan or who is participating in a plan that
 4 does not provide such a form of benefit, any dis-
 5 tribution of the participant’s entire nonforfeitable
 6 accrued benefit if 50 percent of such accrued benefit
 7 is transferred to an individual retirement plan (as
 8 defined in section 7701(a)(37) of the Internal Rev-
 9 enue Code of 1986) of the spouse of the participant.
 10 A transfer described in paragraph (3) to an individual re-
 11 tirement plan shall be treated in the same manner as a
 12 transfer under section 408(d)(6) of the Internal Revenue
 13 Code of 1986.

14 “(d) EXCEPTIONS FOR CERTAIN ROLLOVER CON-
 15 TRIBUTIONS.—Subsection (a) shall not apply to any dis-
 16 tribution, involving a participant who has a spouse, that
 17 is an eligible rollover distribution (as defined in section
 18 402(f)(2)(A) of the Internal Revenue Code of 1986) made
 19 in the form of a direct trustee-to-trustee transfer within
 20 the meaning of section 401(a)(31) of the Internal Revenue
 21 Code of 1986—

22 “(1) to a plan to which this section or section
 23 205 applies; or

1 “(2) to an individual retirement plan (as de-
 2 fined in section 7701(a)(37) of the Internal Revenue
 3 Code of 1986) if—

4 “(A) the beneficiary of such plan is the
 5 spouse of the participant, or the spousal con-
 6 sent requirements of subsection (e) are met
 7 with respect to any designation of 1 or more
 8 other beneficiaries; and

9 “(B) under the terms of the individual re-
 10 tirement plan, the beneficiary of such plan
 11 (whether the spouse or other beneficiary des-
 12 ignated under paragraph (1)) may not be
 13 changed unless—

14 “(i) the spousal consent requirements
 15 of subsection (e) are met with respect to
 16 any such change, or

17 “(ii) the spousal consent under sub-
 18 paragraph (A) to the designation of a ben-
 19 eficiary other than the spouse expressly
 20 permits such designation to be changed
 21 without the further consent of the spouse.

22 “(e) SPOUSAL CONSENT REQUIREMENTS.—

23 “(1) IN GENERAL.—For purposes of this sec-
 24 tion, except as provided in paragraph (2), the spous-
 25 al consent requirements of this subsection are met

with respect to any distribution or any designation
or change of beneficiary if—

“(A) the plan provides to each participant,
within a reasonable period of time before such
distribution or designation or change of bene-
ficiary is made and consistent with such regula-
tions as the Secretary of the Treasury may pre-
scribe, a written explanation of the rights of the
participant and the participant’s spouse under
this section;

“(B) the spouse of the participant consents
in writing to the distribution or designation or
change of beneficiary;

“(C) in the case of a distribution, the writ-
ten consent under subparagraph (B) is made
during the consent period; and

“(D) the written consent under subpara-
graph (B)—

“(i) acknowledges the effect of such
distribution or designation or change of
beneficiary; and

“(ii) is witnessed by a plan represent-
ative or a notary public.

“(2) EXCEPTIONS UNDER SECTION 205 TO
APPLY.—The requirements of paragraph (1) (other

than subparagraph (A) thereof) shall not apply with respect to any distribution or designation or change of beneficiary if a participant establishes to the satisfaction of the plan administrator that—

“(A) there is no spouse;

“(B) the participant and the participant’s spouse have not been married for at least 1 year as of the date of the distribution or designation or change of beneficiary; or

“(C) such consent cannot be obtained because—

“(i) the spouse cannot be located; or

“(ii) of such other circumstances as the Secretary of the Treasury, in consultation with the Secretary of Labor, may by regulations prescribe.

“(3) CONSENT LIMITED TO SPOUSE AND EVENT.—Any written consent by a spouse under paragraph (1), or the establishment by a participant that an exception under paragraph (2) (other than subparagraph (A) thereof) applies with respect to a spouse, shall be effective only with respect to that spouse and to the distribution or designation or change of beneficiary to which it relates.

1 “(4) CONSENT PERIOD.—For purposes of this
2 subsection, the term ‘consent period’ means, with re-
3 spect to any distribution—

4 “(A) the 90-day period immediately pre-
5 ceding the date of such distribution; or

6 “(B) such other period as the Secretary of
7 the Treasury may provide.

8 “(f) DISCHARGE OF PLAN FROM LIABILITY.—Rules
9 similar to the rules of section 205(c)(6) shall apply for
10 purposes of this section.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tions of part 2 of subtitle B of title I of the Em-
13 ployee Retirement Income Security Act of 1974 is
14 amended by inserting after the item relating to sec-
15 tion 205 the following new item:

“Sec. 205A. Additional spousal consent requirements.”.

16 (3) RIGHT OF ACTION.—Section 502(a) of the
17 Employee Retirement Income Security Act of 1974
18 (29 U.S.C. 1132) is amended—

19 (A) by striking “or” at the end of para-
20 graph (10);

21 (B) by striking the period at the end of
22 paragraph (11) and inserting “; or”; and

23 (C) by adding at the end the following new
24 paragraph:

1 “(12) by an individual for appropriate relief in
 2 the case of a violation of the individual’s rights
 3 under section 205A.”.

4 (b) CONFORMING AMENDMENT TO INTERNAL REV-
 5 ENUE CODE OF 1986.—Section 401(a) of the Internal
 6 Revenue Code of 1986 is amended by inserting after para-
 7 graph (17) the following new paragraph:

8 “(18) ADDITIONAL SPOUSAL CONSENT RE-
 9 QUIREMENTS.—

10 “(A) IN GENERAL.—In the case of a de-
 11 fined contribution plan to which paragraph (11)
 12 does not apply, except as provided in sub-
 13 sections (c) and (d), a trust forming part of
 14 such plan shall not constitute a qualified trust
 15 under this section unless no distribution may be
 16 made under the plan unless the spousal consent
 17 requirements of subparagraph (E) are met.

18 “(B) COORDINATION WITH PARAGRAPH
 19 (11).—Nothing in this paragraph shall be con-
 20 strued to exempt a defined contribution plan
 21 from the requirements of paragraph (11) with
 22 respect to any participant.

23 “(C) EXCEPTIONS FOR CERTAIN DISTRIBUTI-
 24 ONS.—Subparagraph (A) shall not apply to—

25 “(i) any distribution that is—

1 “(I) a minimum required dis-
2 tribution described in section 4974(b),

3 “(II) permitted under section
4 411(a)(11) to be made without the
5 consent of the participant, or

6 “(III) in an amount that is less
7 than 25 percent of the account bal-
8 ance,

9 “(ii) any distribution in the form of a
10 qualified joint and survivor annuity (as de-
11 fined in section 417(b)), a qualified op-
12 tional survivor annuity (as defined in sec-
13 tion 417(g)), a qualified preretirement sur-
14 vivor annuity (as defined in section
15 417(c)), or a series of substantially equal
16 periodic payments (not less frequently than
17 annually) made for the joint lives (or life
18 expectancies) of the participant and the
19 participant’s spouse, or

20 “(iii) in the case of a participant who
21 does not elect a form of benefit described
22 in clause (ii) under the plan or who is par-
23 ticipating in a plan that does not provide
24 such a form of benefit, any distribution of
25 the participant’s entire nonforfeitable ac-

1 crued benefit if 50 percent of such accrued
2 benefit is transferred to an individual re-
3 tirement plan of the spouse of the partici-
4 pant.

5 A transfer described in clause (iii) to an indi-
6 vidual retirement plan shall be treated in the
7 same manner as a transfer under section
8 408(d)(6).

9 “(D) EXCEPTIONS FOR CERTAIN ROLL-
10 OVER CONTRIBUTIONS.—Subparagraph (A)
11 shall not apply to any distribution, involving a
12 participant who has a spouse, that is an eligible
13 rollover distribution (as defined in section
14 402(f)(2)(A)) made in the form of a direct
15 trustee-to-trustee transfer within the meaning
16 of paragraph (31)—

17 “(i) to a plan to which this paragraph
18 or paragraph (11) applies, or

19 “(ii) to an individual retirement plan
20 if—

21 “(I) the beneficiary of such plan
22 is the spouse of the participant, or the
23 spousal consent requirements of sub-
24 paragraph (E) are met with respect to

1 any designation of 1 or more other
2 beneficiaries, and

3 “(II) under the terms of the indi-
4 vidual retirement plan, the beneficiary
5 of such plan (whether the spouse or
6 other beneficiary designated under
7 subclause (I)) may not be changed un-
8 less—

9 “(aa) the spousal consent
10 requirements of subparagraph
11 (E) are met with respect to any
12 such change, or

13 “(bb) the spousal consent
14 under subclause (I) to the des-
15 ignation of a beneficiary other
16 than the spouse expressly permits
17 such designation to be changed
18 without the further consent of
19 the spouse.

20 “(E) SPOUSAL CONSENT REQUIRE-
21 MENTS.—

22 “(i) IN GENERAL.—For purposes of
23 this paragraph, except as provided in
24 clause (ii), the spousal consent require-
25 ments of this subparagraph are met with

1 respect to any distribution or any designa-
2 tion or change of beneficiary if—

3 “(I) the plan provides to each
4 participant, within a reasonable period
5 of time before such distribution or
6 designation or change of beneficiary is
7 made and consistent with such regula-
8 tions as the Secretary may prescribe,
9 a written explanation of the rights of
10 the participant and the participant’s
11 spouse under this paragraph,

12 “(II) the spouse of the partici-
13 pant consents in writing to the dis-
14 tribution or designation or change of
15 beneficiary,

16 “(III) in the case of a distribu-
17 tion, the written consent under sub-
18 clause (II) is made during the consent
19 period, and

20 “(IV) the written consent under
21 subclause (II)—

22 “(aa) acknowledges the ef-
23 fect of such distribution or des-
24 ignation or change of beneficiary,
25 and

1 “(bb) is witnessed by a plan
2 representative or a notary public.

3 “(ii) EXCEPTIONS UNDER SECTION
4 417 TO APPLY.—The requirements of
5 clause (i) (other than subclause (I) there-
6 of) shall not apply with respect to any dis-
7 tribution or designation or change of bene-
8 ficiary if a participant establishes to the
9 satisfaction of the plan administrator
10 that—

11 “(I) there is no spouse,

12 “(II) the participant and the par-
13 ticipant’s spouse have not been mar-
14 ried for at least 1 year as of the date
15 of the distribution or designation or
16 change of beneficiary, or

17 “(III) such consent cannot be ob-
18 tained because—

19 “(aa) the spouse cannot be
20 located, or

21 “(bb) of such other cir-
22 cumstances as the Secretary, in
23 consultation with the Secretary
24 of Labor, may by regulations pre-
25 scribe.

1 “(iii) CONSENT LIMITED TO SPOUSE
 2 AND EVENT.—Any written consent by a
 3 spouse under clause (i), or the establish-
 4 ment by a participant that an exception
 5 under clause (ii) (other than subclause (I)
 6 thereof) applies with respect to a spouse,
 7 shall be effective only with respect to that
 8 spouse and to the distribution or designa-
 9 tion or change of beneficiary to which it
 10 relates.

11 “(iv) CONSENT PERIOD.—For pur-
 12 poses of this subparagraph, the term ‘con-
 13 sent period’ means, with respect to any
 14 distribution—

15 “(I) the 90-day period imme-
 16 diately preceding the date of such dis-
 17 tribution, or

18 “(II) such other period as the
 19 Secretary may provide.”.

20 **SEC. 4. EFFECTIVE DATES.**

21 (a) INCREASING SPOUSAL PROTECTION UNDER DE-
 22 FINED CONTRIBUTION PLANS.—Except as provided in
 23 subsection (b), the amendments made by section 3 shall
 24 apply to distributions and rollover contributions made in

1 plan years beginning after the date that is 1 year after
 2 the date of the enactment of this Act.

3 (b) PROVISIONS RELATING TO PLAN AMEND-
 4 MENTS.—

5 (1) IN GENERAL.—If this paragraph applies to
 6 any plan or contract amendment, such plan or con-
 7 tract shall be treated as being operated in accord-
 8 ance with the terms of the plan during the period
 9 described in paragraph (2)(C).

10 (2) AMENDMENTS TO WHICH PARAGRAPH (1)
 11 APPLIES.—

12 (A) IN GENERAL.—Paragraph (1) shall
 13 apply to any amendment to any plan or annuity
 14 contract which is made—

15 (i) pursuant to the amendments made
 16 by section 3 or pursuant to any regulation
 17 issued under section 205A of the Employee
 18 Retirement Income Security Act of 1974
 19 or section 401(a)(18) of the Internal Rev-
 20 enue Code of 1986, as added by section 3;
 21 and

22 (ii) on or before the last day of the
 23 first plan year beginning on or after the
 24 date that is 3 years after the date de-
 25 scribed in subsection (a).

1 In the case of a governmental plan (as defined
 2 in section 414(d) of the Internal Revenue Code
 3 of 1986), this subparagraph shall be applied by
 4 substituting “5 years” for “3 years” in clause
 5 (ii).

6 (B) CONDITIONS.—Subparagraph (A) shall
 7 not apply to any amendment unless—

8 (i) the plan or contract is operated as
 9 if such plan or contract amendment were
 10 in effect for the period described in sub-
 11 paragraph (C); and

12 (ii) such plan or contract amendment
 13 applies retroactively for such period.

14 (C) PERIOD DESCRIBED.—The period de-
 15 scribed in this subparagraph is the period—

16 (i) beginning on the effective date
 17 specified by the plan; and

18 (ii) ending on the date described in
 19 subparagraph (A)(ii) (or, if earlier, the
 20 date the plan or contract amendment is
 21 adopted).

22 **SEC. 5. ACCESS TO INDEPENDENT CONSUMER INFORMA-**
 23 **TION AND UNDERSTANDING.**

24 (a) DEFINITIONS.—In this section—

1 (1) the term “consumer” means any person
 2 who purchases or acquires any goods, products, serv-
 3 ices, or credit related to the retirement or later life
 4 economic security of the consumer; and

5 (2) the term “financial product or service pro-
 6 vider” means any person who engages in the busi-
 7 ness of providing any retirement financial product or
 8 service to any consumer.

9 (b) REQUIRED LINK TO CONSUMER AWARENESS IN-
 10 FORMATION.—In any offer for the sale, exchange, or other
 11 transfer of a retirement financial product or service to a
 12 consumer carried out by a financial product or service pro-
 13 vider, such provider shall provide, in a manner consistent
 14 with subsection (c), an easily accessible link to the website
 15 of the Bureau of Consumer Financial Protection (referred
 16 to in this section as the “CFPB”) at which the consumer
 17 may access information, literature, guides, programs,
 18 tools, strategies, or any other resource produced by the
 19 CFPB or other Federal agency relating to retirement
 20 planning or later life economic security.

21 (c) DETERMINATION.—In order to ensure that the re-
 22 quirement under subsection (b) is effectively carried out,
 23 the Financial Literacy and Education Commission shall
 24 determine and publish on its website the appropriate link
 25 to the CFPB’s website for access to the CFPB’s and other

1 Federal agencies' consumer education materials, the pre-
2 ferred format of such link, and any accompanying descrip-
3 tion of the CFPB and the consumer education materials
4 associated with such link.

5 **SEC. 6. GRANTS TO PROMOTE FINANCIAL LITERACY FOR**
6 **WOMEN.**

7 (a) AUTHORIZATION OF GRANT AWARDS.—The Sec-
8 retary of Labor, acting through the Director of the Wom-
9 en's Bureau, shall award grants on a competitive basis to
10 eligible entities to enable such entities to improve the fi-
11 nancial literacy of women who are working age or in re-
12 tirement, to increase the likelihood of the women realizing
13 a secure and stable retirement.

14 (b) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
15 tion, the term “eligible entity” means a community-based
16 organization with proven experience and expertise in serv-
17 ing working-age or retired women.

18 (c) APPLICATION.—An eligible entity that desires to
19 receive a grant under this section shall submit an applica-
20 tion to the Secretary of Labor at such time, in such man-
21 ner, and accompanied by such information as such Sec-
22 retary may require.

23 (d) MINIMUM GRANT AMOUNT.—The Secretary of
24 Labor shall award grants under this section in amounts
25 of not less than \$250,000.

1 (e) USE OF FUNDS.—An eligible entity that receives
 2 a grant under this section shall use the grant funds to
 3 develop and implement financial literacy education, and
 4 related activities including outreach, awareness building,
 5 and counseling to increase women’s knowledge of retire-
 6 ment planning and consumer, economic, and personal fi-
 7 nancial concepts.

8 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
 9 authorized to be appropriated to carry out this section
 10 \$100,000,000 for fiscal year 2026 and each succeeding
 11 fiscal year.

12 **SEC. 7. GRANTS TO ASSIST LOW-INCOME WOMEN AND SUR-**
 13 **VIVORS OF DOMESTIC VIOLENCE IN OBTAIN-**
 14 **ING QUALIFIED DOMESTIC RELATIONS OR-**
 15 **DERS.**

16 (a) AUTHORIZATION OF GRANT AWARDS.—The Sec-
 17 retary of Labor, acting through the Director of the Wom-
 18 en’s Bureau and in conjunction with the Assistant Sec-
 19 retary of the Employee Benefits Security Administration,
 20 shall award grants, on a competitive basis, to eligible enti-
 21 ties to enable such entities to assist low-income women
 22 and survivors of domestic violence in obtaining qualified
 23 domestic relations orders and ensuring that those women
 24 actually obtain the benefits to which they are entitled
 25 through those orders.

1 (b) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
2 tion, the term “eligible entity” means a community-based
3 organization with proven experience and expertise in serv-
4 ing women and the financial and retirement needs of
5 women.

6 (c) APPLICATION.—An eligible entity that desires to
7 receive a grant under this section shall submit an applica-
8 tion to the Secretary of Labor at such time, in such man-
9 ner, and accompanied by such information as the Sec-
10 retary of Labor may require.

11 (d) MINIMUM GRANT AMOUNT.—The Secretary of
12 Labor shall award grants under this section in amounts
13 of not less than \$250,000.

14 (e) USE OF FUNDS.—An eligible entity that receives
15 a grant under this section shall use the grant funds to
16 develop programs to offer help to low-income women or
17 survivors of domestic violence who need assistance in pre-
18 paring, obtaining, and effectuating a qualified domestic re-
19 lations order.

20 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to carry out this section
22 \$100,000,000 for fiscal year 2026 and each succeeding
23 fiscal year.

○