

119TH CONGRESS
1ST SESSION

S. _____

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

Ms. BALDWIN introduced the following bill; which was read twice and referred to the Committee on _____

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:

8 (1) Approximately 28 percent of non-retired
9 adults have no defined benefit plan or retirement

1 savings, according to 2023 data from the Board of
2 Governors of the Federal Reserve System.

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

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

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

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

24 (6) Because of the pay gap, women working
25 full-time, year-round typically lose \$398,160 over a

1 40-year career thereby requiring the average woman
2 to work almost a decade longer than her male coun-
3 terpart to make up that career wage gap.

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

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

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

20 (10) The Thrift Savings Plan of the Federal
21 Government, the largest defined contribution plan in
22 the world with approximately 6,500,000 partici-
23 pants, requires its married participants to have their
24 spouses' consent for withdrawals and loans.

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

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

9 **SEC. 3. INCREASING SPOUSAL PROTECTION UNDER DE-**
10 **FINED CONTRIBUTION PLANS.**

11 (a) AMENDMENT OF EMPLOYEE RETIREMENT IN-
12 COME SECURITY ACT OF 1974.—

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

17 **“SEC. 205A. ADDITIONAL SPOUSAL CONSENT REQUIRE-**
18 **MENTS.**

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

24 “(b) COORDINATION WITH SECTION 205.—Nothing
25 in this section shall be construed to exempt an individual

1 account plan from the requirements of section 205 with
2 respect to any participant.

3 “(c) EXCEPTIONS FOR CERTAIN DISTRIBUTIONS.—

4 Subsection (a) shall not apply to—

5 “(1) any distribution that is—

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

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

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

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

24 “(3) in the case of a participant who does not
25 elect a form of benefit described in paragraph (2)

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

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

20 “(1) to a plan to which this section or section
21 205 applies; or

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

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

6 “(B) under the terms of the individual re-
7 tirement plan, the beneficiary of such plan
8 (whether the spouse or other beneficiary des-
9 igned under paragraph (1)) may not be
10 changed unless—

11 “(i) the spousal consent requirements
12 of subsection (e) are met with respect to
13 any such change, or

14 “(ii) the spousal consent under sub-
15 paragraph (A) to the designation of a ben-
16 efiary other than the spouse expressly
17 permits such designation to be changed
18 without the further consent of the spouse.

19 “(e) SPOUSAL CONSENT REQUIREMENTS.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, except as provided in paragraph (2), the spous-
22 al consent requirements of this subsection are met
23 with respect to any distribution or any designation
24 or change of beneficiary if—

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

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

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

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

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

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

22 “(2) EXCEPTIONS UNDER SECTION 205 TO
23 APPLY.—The requirements of paragraph (1) (other
24 than subparagraph (A) thereof) shall not apply with
25 respect to any distribution or designation or change

1 of beneficiary if a participant establishes to the sat-
2 isfaction of the plan administrator that—

3 “(A) there is no spouse;

4 “(B) the participant and the participant’s
5 spouse have not been married for at least 1
6 year as of the date of the distribution or des-
7 ignation or change of beneficiary; or

8 “(C) such consent cannot be obtained be-
9 cause—

10 “(i) the spouse cannot be located; or

11 “(ii) of such other circumstances as
12 the Secretary of the Treasury, in consulta-
13 tion with the Secretary of Labor, may by
14 regulations prescribe.

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

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

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

3 “(B) such other period as the Secretary of
4 the Treasury may provide.

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

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

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

13 (3) RIGHT OF ACTION.—Section 502(a) of the
14 Employee Retirement Income Security Act of 1974
15 (29 U.S.C. 1132) is amended—

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

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

20 (C) by adding at the end the following new
21 paragraph:

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

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

5 “(18) ADDITIONAL SPOUSAL CONSENT RE-
6 QUIREMENTS.—

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

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

20 “(C) EXCEPTIONS FOR CERTAIN DISTRIBU-
21 TIONS.—Subparagraph (A) shall not apply to—

22 “(i) any distribution that is—

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

1 “(II) permitted under section
2 411(a)(11) to be made without the
3 consent of the participant, or

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

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

18 “(iii) in the case of a participant who
19 does not elect a form of benefit described
20 in clause (ii) under the plan or who is par-
21 ticipating in a plan that does not provide
22 such a form of benefit, any distribution of
23 the participant’s entire nonforfeitable ac-
24 crued benefit if 50 percent of such accrued
25 benefit is transferred to an individual re-

1 retirement plan of the spouse of the partici-
2 pant.

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

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

15 “(i) to a plan to which this paragraph
16 or paragraph (11) applies, or

17 “(ii) to an individual retirement plan
18 if—

19 “(I) the beneficiary of such plan
20 is the spouse of the participant, or the
21 spousal consent requirements of sub-
22 paragraph (E) are met with respect to
23 any designation of 1 or more other
24 beneficiaries, and

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

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

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

18 “(E) SPOUSAL CONSENT REQUIRE-
19 MENTS.—

20 “(i) IN GENERAL.—For purposes of
21 this paragraph, except as provided in
22 clause (ii), the spousal consent require-
23 ments of this subparagraph are met with
24 respect to any distribution or any designa-
25 tion or change of beneficiary if—

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

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

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

18 “(IV) the written consent under
19 subclause (II)—

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

24 “(bb) is witnessed by a plan
25 representative or a notary public.

1 “(ii) EXCEPTIONS UNDER SECTION
2 417 TO APPLY.—The requirements of
3 clause (i) (other than subclause (I) there-
4 of) shall not apply with respect to any dis-
5 tribution or designation or change of bene-
6 ficiary if a participant establishes to the
7 satisfaction of the plan administrator
8 that—

9 “(I) there is no spouse,

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

15 “(III) such consent cannot be ob-
16 tained because—

17 “(aa) the spouse cannot be
18 located, or

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

24 “(iii) CONSENT LIMITED TO SPOUSE
25 AND EVENT.—Any written consent by a

1 spouse under clause (i), or the establish-
2 ment by a participant that an exception
3 under clause (ii) (other than subclause (I)
4 thereof) applies with respect to a spouse,
5 shall be effective only with respect to that
6 spouse and to the distribution or designa-
7 tion or change of beneficiary to which it
8 relates.

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

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

16 “(II) such other period as the
17 Secretary may provide.”.

18 **SEC. 4. EFFECTIVE DATES.**

19 (a) INCREASING SPOUSAL PROTECTION UNDER DE-
20 FINED CONTRIBUTION PLANS.—Except as provided in
21 subsection (b), the amendments made by section 3 shall
22 apply to distributions and rollover contributions made in
23 plan years beginning after the date that is 1 year after
24 the date of the enactment of this Act.

1 (b) PROVISIONS RELATING TO PLAN AMEND-
2 MENTS.—

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

8 (2) AMENDMENTS TO WHICH PARAGRAPH (1)
9 APPLIES.—

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

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

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

24 In the case of a governmental plan (as defined
25 in section 414(d) of the Internal Revenue Code

1 of 1986), this subparagraph shall be applied by
2 substituting “5 years” for “3 years” in clause
3 (ii).

4 (B) CONDITIONS.—Subparagraph (A) shall
5 not apply to any amendment unless—

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

10 (ii) such plan or contract amendment
11 applies retroactively for such period.

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

14 (i) beginning on the effective date
15 specified by the plan; and

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

20 **SEC. 5. ACCESS TO INDEPENDENT CONSUMER INFORMA-**
21 **TION AND UNDERSTANDING.**

22 (a) DEFINITIONS.—In this section—

23 (1) the term “consumer” means any person
24 who purchases or acquires any goods, products, serv-

1 ices, or credit related to the retirement or later life
2 economic security of the consumer; and

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

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

19 (c) **DETERMINATION.**—In order to ensure that the re-
20 quirement under subsection (b) is effectively carried out,
21 the Financial Literacy and Education Commission shall
22 determine and publish on its website the appropriate link
23 to the CFPB’s website for access to the CFPB’s and other
24 Federal agencies’ consumer education materials, the pre-
25 ferred format of such link, and any accompanying descrip-

1 tion of the CFPB and the consumer education materials
2 associated with such link.

3 **SEC. 6. GRANTS TO PROMOTE FINANCIAL LITERACY FOR**
4 **WOMEN.**

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

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

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

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

24 (e) **USE OF FUNDS.**—An eligible entity that receives
25 a grant under this section shall use the grant funds to

1 develop and implement financial literacy education, and
2 related activities including outreach, awareness building,
3 and counseling to increase women’s knowledge of retire-
4 ment planning and consumer, economic, and personal fi-
5 nancial concepts.

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

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

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

24 (b) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
25 tion, the term “eligible entity” means a community-based

1 organization with proven experience and expertise in serv-
2 ing women and the financial and retirement needs of
3 women.

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

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

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

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