

117TH CONGRESS  
2D SESSION

# S. 3993

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans for domestic abuse victims.

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IN THE SENATE OF THE UNITED STATES

APRIL 5, 2022

Ms. CORTEZ MASTO (for herself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans for domestic abuse victims.

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 “Savings Access For  
5 Escaping and Rebuilding Act of 2022” or the “SAFER  
6 Act”.

1 **SEC. 2. PENALTY-FREE WITHDRAWALS FROM RETIREMENT**  
2 **PLANS FOR INDIVIDUALS IN CASE OF DOMES-**  
3 **TIC ABUSE.**

4 (a) IN GENERAL.—Section 72(t)(2) of the Internal  
5 Revenue Code of 1986 is amended by adding at the end  
6 the following new subparagraph:

7 “(I) DISTRIBUTIONS FROM RETIREMENT  
8 PLAN IN CASE OF DOMESTIC ABUSE.—

9 “(i) IN GENERAL.—Any eligible dis-  
10 tribution to a domestic abuse victim.

11 “(ii) LIMITATION.—The aggregate  
12 amount which may be treated as an eligi-  
13 ble distribution to a domestic abuse victim  
14 by any individual shall not exceed an  
15 amount equal to the lesser of—

16 “(I) \$10,000, or

17 “(II) 50 percent of the present  
18 value of the nonforfeitable accrued  
19 benefit of the employee under the  
20 plan.

21 “(iii) ELIGIBLE DISTRIBUTION TO A  
22 DOMESTIC ABUSE VICTIM.—For purposes  
23 of this subparagraph—

24 “(I) IN GENERAL.—A distribu-  
25 tion shall be treated as an eligible dis-  
26 tribution to a domestic abuse victim if

1 such distribution is from an applicable  
2 eligible retirement plan to an indi-  
3 vidual and made during the 1-year pe-  
4 riod beginning on any date on which  
5 the individual is a victim of domestic  
6 abuse by a spouse or domestic part-  
7 ner.

8 “(II) DOMESTIC ABUSE.—The  
9 term ‘domestic abuse’ means physical,  
10 psychological, sexual, emotional, or  
11 economic abuse, including efforts to  
12 control, isolate, humiliate, or intimi-  
13 date the victim, or to undermine the  
14 victim’s ability to reason independ-  
15 ently, including by means of abuse of  
16 the victim’s child or another family  
17 member living in the household.

18 “(iv) TREATMENT OF PLAN DISTRIBU-  
19 TIONS.—

20 “(I) IN GENERAL.—If a distribu-  
21 tion to an individual would (without  
22 regard to clause (ii)) be an eligible  
23 distribution to a domestic abuse vic-  
24 tim, a plan shall not be treated as  
25 failing to meet any requirement of

1 this title merely because the plan  
2 treats the distribution as an eligible  
3 distribution to a domestic abuse vic-  
4 tim, unless the aggregate amount of  
5 such distributions from all plans  
6 maintained by the employer (and any  
7 member of any controlled group which  
8 includes the employer) to such indi-  
9 vidual exceeds the limitation under  
10 clause (ii).

11 “(II) CONTROLLED GROUP.—For  
12 purposes of subclause (I), the term  
13 ‘controlled group’ means any group  
14 treated as a single employer under  
15 subsection (b), (c), (m), or (o) of sec-  
16 tion 414.

17 “(v) AMOUNT DISTRIBUTED MAY BE  
18 REPAID.—

19 “(I) IN GENERAL.—Any indi-  
20 vidual who receives a distribution de-  
21 scribed in clause (i) may, at any time  
22 during the 3-year period beginning on  
23 the day after the date on which such  
24 distribution was received, make one or  
25 more contributions in an aggregate

1 amount not to exceed the amount of  
2 such distribution to an applicable eli-  
3 gible retirement plan of which such  
4 individual is a beneficiary and to  
5 which a rollover contribution of such  
6 distribution could be made under sec-  
7 tion 402(c), 403(a)(4), 403(b)(8),  
8 408(d)(3), or 457(e)(16), as the case  
9 may be.

10 “(II) LIMITATION ON CONTRIBU-  
11 TIONS TO APPLICABLE ELIGIBLE RE-  
12 TIREMENT PLANS OTHER THAN  
13 IRAS.—The aggregate amount of con-  
14 tributions made by an individual  
15 under subclause (I) to any applicable  
16 eligible retirement plan which is not  
17 an individual retirement plan shall not  
18 exceed the aggregate amount of eligi-  
19 ble distributions to a domestic abuse  
20 victim which are made from such plan  
21 to such individual. Subclause (I) shall  
22 not apply to contributions to any ap-  
23 plicable eligible retirement plan which  
24 is not an individual retirement plan  
25 unless the individual is eligible to

1 make contributions (other than those  
2 described in subclause (I)) to such ap-  
3 plicable eligible retirement plan.

4 “(III) TREATMENT OF REPAY-  
5 MENTS OF DISTRIBUTIONS FROM AP-  
6 PPLICABLE ELIGIBLE RETIREMENT  
7 PLANS OTHER THAN IRAS.—If a con-  
8 tribution is made under subclause (I)  
9 with respect to an eligible distribution  
10 to a domestic abuse victim from an  
11 applicable eligible retirement plan  
12 other than an individual retirement  
13 plan, then the taxpayer shall, to the  
14 extent of the amount of the contribu-  
15 tion, be treated as having received  
16 such distribution in an eligible rollover  
17 distribution (as defined in section  
18 402(c)(4)) and as having transferred  
19 the amount to the applicable eligible  
20 retirement plan in a direct trustee to  
21 trustee transfer within 60 days of the  
22 distribution.

23 “(IV) TREATMENT OF REPAY-  
24 MENTS FOR DISTRIBUTIONS FROM  
25 IRAS.—If a contribution is made

1 under subclause (I) with respect to an  
2 eligible distribution to a domestic  
3 abuse victim from an individual retire-  
4 ment plan, then, to the extent of the  
5 amount of the contribution, such dis-  
6 tribution shall be treated as a dis-  
7 tribution described in section  
8 408(d)(3) and as having been trans-  
9 ferred to the applicable eligible retire-  
10 ment plan in a direct trustee to trust-  
11 ee transfer within 60 days of the dis-  
12 tribution.

13 “(vi) DEFINITION AND SPECIAL  
14 RULES.—For purposes of this subpara-  
15 graph:

16 “(I) APPLICABLE ELIGIBLE RE-  
17 TIREMENT PLAN.—The term ‘applica-  
18 ble eligible retirement plan’ means an  
19 eligible retirement plan (as defined in  
20 section 402(c)(8)(B)) other than a de-  
21 fined benefit plan.

22 “(II) EXEMPTION OF DISTRIBU-  
23 TIONS FROM TRUSTEE TO TRUSTEE  
24 TRANSFER AND WITHHOLDING  
25 RULES.—For purposes of sections

1 401(a)(31), 402(f), and 3405, an eli-  
2 gible distribution to a domestic abuse  
3 victim shall not be treated as an eligi-  
4 ble rollover distribution.

5 “(III) DISTRIBUTIONS TREATED  
6 AS MEETING PLAN DISTRIBUTION RE-  
7 QUIREMENTS; SELF-CERTIFICATION.—  
8 Any distribution which the employee  
9 or participant certifies as being an eli-  
10 gible distribution to a domestic abuse  
11 victim shall be treated as meeting the  
12 requirements of sections  
13 401(k)(2)(B)(i), 403(b)(7)(A)(i),  
14 403(b)(11), and 457(d)(1)(A).”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to distributions made after the  
17 date of the enactment of this Act.

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