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Key Legislative Developments Affecting Your Human Resources US

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Women's Pension Protection Act Reintroduced

Senator Patty Murray recently reintroduced the Women's Pension Protection Act — legislation designed to bolster consumer protections for retirement savings, improve access to retirement savings plans for part-time workers, and increase women's financial literacy. The bill cannot move forward in this Congress without Republican support. Nevertheless, employers should continue to monitor this legislation, which would require changes to defined contribution plans.

Background

Three years ago, Patty Murray, D-Wash., ranking member of the Senate Health, Education, Labor, and Pensions (HELP) Committee, introduced the Women's Pension Protection Act of 2015. The proposal aimed to enhance women's retirement security by:

- Extending the defined benefit plan spousal consent rules to defined contribution plans
- Requiring 401(k) and 403(b) plans to allow certain non-union, part-time employees who work at least 500 hours in three consecutive 12-month periods to participate
- Improving women's financial literacy

The legislation imposed a $10,000 per year, per employee penalty for plans that fail to allow the specified part-time employees to participate. (See our October 12, 2015 *Legislate.*)

Earlier unsuccessful legislation aimed at improving retirement security for women — the Women's Pension Protection Act of 2002 and the Comprehensive Women's Pension Protection Act of 1996 — also would have required spousal consent for distributions from defined contribution plans.

2018 Reboot

Last month, Sen. Murray reintroduced legislation that, like its 2015 predecessor, seeks to "extend critical protections to women's retirement security" and to provide "enhanced tools to ensure women can prepare better for retirement." The accompanying summary notes that women often "lag significantly behind their male counterparts in preparing for retirement," given that they "make up the majority of low-wage and part-time workers and accordingly are less likely than others to participate in a workplace retirement plan" and that they "are more likely to leave the workforce to become caregivers, which has a considerable and long-term impact in terms of lost wages and Social Security benefits."

The provisions of the 2018 bill largely track those of its 2015 counterpart in extending the defined benefit plan spousal consent rules to defined contribution plans, requiring employers to allow certain part-time workers to participate, and authorizing grants aimed at improving women's financial literacy. However, the 2018 bill reduces the tenure that a part-time worker must have before the employer is required to allow participation in the plan — an employee would only need two consecutive years of at least 500 hours of service, rather than three, as the 2015 bill had required. The 2018 version also authorizes appropriations for grants to assist low-income women and domestic violence victims in obtaining qualified domestic relations orders.

> **Comment.** According to the legislation, after the family home, "retirement savings are the largest asset that must be divided at divorce." The idea behind extending the spousal consent rules to defined contribution plans is to protect women's interest in that asset.

The legislation has 16 Senate Democratic co-sponsors and is endorsed by AARP, the National Women's Law Center, the Society for Financial Education and Professional Development, and the Pension Rights Center.

Bottom Line

While this legislation cannot move forward in this Congress without Republican support, employers should be aware that it may gain traction in the future. Implementing the proposals should it become law would likely cause defined contribution plans to experience increased costs to administer spousal consent requirements and monitor part-time employees' hours.

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