

117TH CONGRESS  
1ST SESSION

# H. R. 4730

To establish, for certain individuals, an open enrollment period for the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2021

Mr. WALTZ (for himself and Mr. PANETTA) introduced the following bill;  
which was referred to the Committee on Armed Services

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## A BILL

To establish, for certain individuals, an open enrollment period for the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code.

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 “The Post-Widows Tax  
5 Repeal SBP Open Enrollment for Service-Disabled Vet-  
6 erans Act”.

1 **SEC. 2. SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PE-**  
2 **RIOD.**

3 (a) PERSONS NOT CURRENTLY PARTICIPATING IN  
4 SURVIVOR BENEFIT PLAN.—

5 (1) ELECTION OF SBP COVERAGE.—An eligible  
6 retired or former member may elect to participate in  
7 the Survivor Benefit Plan during the open enroll-  
8 ment period specified in subsection (d).

9 (2) ELIGIBLE RETIRED OR FORMER MEMBER.—  
10 For purposes of paragraph (1), an eligible retired or  
11 former member is a member or former member of  
12 the uniformed services who, on the day before the  
13 first day of the open enrollment period, discontinued  
14 participation in the Survivor Benefit Plan under sec-  
15 tion 1452(g) of title 10, United States Code, and—

16 (A) is entitled to retired pay; or

17 (B) would be entitled to retired pay under  
18 chapter of title 10, United States Code (or  
19 chapter 67 of such title as in effect before Octo-  
20 ber 5, 1994), but for the fact that such member  
21 or former member is under 60 years of age.

22 (3) STATUS UNDER SBP OF PERSONS MAKING  
23 ELECTIONS.—

24 (A) STANDARD ANNUITY.—A person mak-  
25 ing an election under paragraph (1) by reason  
26 of eligibility under paragraph (2)(A) shall be

1 treated for all purposes as providing a standard  
2 annuity under the Survivor Benefit Plan.

3 (B) RESERVE-COMPONENT ANNUITY.—A  
4 person making an election under paragraph (1)  
5 by reason of eligibility under paragraph (2)(B)  
6 shall be treated for all purposes as providing a  
7 reserve-component annuity under the Survivor  
8 Benefit Plan.

9 (b) MANNER OF MAKING ELECTIONS.—

10 (1) IN GENERAL.—An election under this sec-  
11 tion must be made in writing, signed by the person  
12 making the election, and received by the Secretary  
13 concerned before the end of the open enrollment pe-  
14 riod. Except as provided in paragraph (2), any such  
15 election shall be made subject to the same condi-  
16 tions, and with the same opportunities for designa-  
17 tion of beneficiaries and specification of base  
18 amount, that apply under the Survivor Benefit Plan.  
19 A person making an election under subsection (a) to  
20 provide a reserve-component annuity shall make a  
21 designation described in section 1448(e) of title 10,  
22 United States Code.

23 (2) ELECTION MUST BE VOLUNTARY.—An elec-  
24 tion under this section is not effective unless the  
25 person making the election declares the election to

1 be voluntary. An election to participate in the Sur-  
2 vivor Benefit Plan under this section may not be re-  
3 quired by any court. An election to participate or  
4 not to participate in the Survivor Benefit Plan is not  
5 subject to the concurrence of a spouse or former  
6 spouse of the person.

7 (c) EFFECTIVE DATE FOR ELECTIONS.—Any such  
8 election shall be effective as of the first day of the first  
9 calendar month following the month in which the election  
10 is received by the Secretary concerned.

11 (d) OPEN ENROLLMENT PERIOD DEFINED.—The  
12 open enrollment period is the period beginning on the date  
13 of the enactment of this Act and ending on January 1,  
14 2023.

15 (e) APPLICABILITY OF CERTAIN PROVISIONS OF  
16 LAW.—The provisions of sections 1449, 1453, and 1454  
17 of title 10, United States Code, are applicable to a person  
18 making an election, and to an election, under this section  
19 in the same manner as if the election were made under  
20 the Survivor Benefit Plan.

21 (f) PREMIUMS FOR OPEN ENROLLMENT ELEC-  
22 TION.—

23 (1) PREMIUMS TO BE CHARGED.—The Sec-  
24 retary of Defense shall prescribe in regulations pre-  
25 miums which a person electing under this section

1 shall be required to pay for participating in the Sur-  
2 vivor Benefit Plan pursuant to the election. The  
3 total amount of the premiums to be paid by a person  
4 under the regulations shall be equal to the sum of—

5 (A) the total amount by which the retired  
6 pay of the person would have been reduced be-  
7 fore the effective date of the election if the per-  
8 son had elected to participate in the Survivor  
9 Benefit Plan (for the same base amount speci-  
10 fied in the election) at the first opportunity that  
11 was afforded the member to participate under  
12 chapter 73 of title 10, United States Code;

13 (B) interest on the amounts by which the  
14 retired pay of the person would have been so re-  
15 duced, computed from the dates on which the  
16 retired pay would have been so reduced at such  
17 rate or rates and according to such method-  
18 ology as the Secretary of Defense determines  
19 reasonable; and

20 (C) any additional amount that the Sec-  
21 retary determines necessary to protect the actu-  
22 arial soundness of the Department of Defense  
23 Military Retirement Fund against any increased  
24 risk for the fund that is associated with the  
25 election.

1           (2) PREMIUMS TO BE CREDITED TO RETIRE-  
2           MENT FUND.—Premiums paid under the regulations  
3           shall be credited to the Department of Defense Mili-  
4           tary Retirement Fund.

5           (g) DEFINITIONS.—In this section:

6           (1) The term “Survivor Benefit Plan” means  
7           the program established under subchapter II of  
8           chapter 73 of title 10, United States Code.

9           (2) The term “retired pay” includes retainer  
10          pay paid under section 8330 of title 10, United  
11          States Code.

12          (3) The terms “uniformed services” and “Sec-  
13          retary concerned” have the meanings given those  
14          terms in section 101 of title 37, United States Code.

15          (4) The term “Department of Defense Military  
16          Retirement Fund” means the Department of De-  
17          fense Military Retirement Fund established under  
18          section 1461(a) of title 10, United States Code.

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