

118TH CONGRESS  
1ST SESSION

# S. 3288

To amend title 38, United States Code, to reinstate entitlement to Post-9/11 Educational Assistance for victims of sexual assault or domestic violence, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2023

Mr. KING (for himself and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to reinstate entitlement to Post-9/11 Educational Assistance for victims of sexual assault or domestic violence, 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 “Safeguarding Depart-  
5 ment of Veterans Affairs Dependent Education Benefits  
6 Act of 2023”.

1 **SEC. 2. REINSTATEMENT OF ENTITLEMENT TO POST-9/11**  
2 **EDUCATIONAL ASSISTANCE FOR VICTIMS OF**  
3 **SEXUAL ASSAULT OR DOMESTIC VIOLENCE.**

4 (a) IN GENERAL.—Chapter 33 of title 38, United  
5 States Code, is amended by inserting after section 3319,  
6 the following:

7 **“§ 3319A. Victims of sexual assault and domestic vio-**  
8 **lence; authority to retain transferred**  
9 **education benefits**

10 “(a) REINSTATEMENT OF EDUCATIONAL ASSIST-  
11 ANCE.—The Secretary concerned may, subject to regula-  
12 tions prescribed by the Secretary of Defense and the Sec-  
13 retary of Homeland Security in coordination with the Sec-  
14 retary of Veterans Affairs, reinstate terminated edu-  
15 cational assistance payments that were transferred to a  
16 spouse or a dependent child under section 3319 of this  
17 title if the Secretary concerned determines that the proxi-  
18 mate cause for the termination of payment is—

19 “(1) the administrative separation or conviction  
20 by a court martial, or by civilian, Tribal, or State  
21 court, of a covered individual for a dependent-abuse  
22 offense; and

23 “(2) the administrative separation or conviction  
24 resulted in a discharge characterization of the cov-  
25 ered individual that does not meet the requirements  
26 of section 3311(c) of this title.

1       “(b) APPLICATION.—(1) A spouse or dependent child  
2 described in subsection (a) seeking reinstatement of termi-  
3 nated educational assistance payments for a termination  
4 described in such subsection shall apply for such reinstate-  
5 ment not later than 3 years after the discharge of the cov-  
6 ered individual.

7       “(2) An application under paragraph (1) shall include  
8 sufficient information to substantiate that a spouse or de-  
9 pendent child was the victim of dependent-abuse that re-  
10 sulted in a discharge characterization that does not meet  
11 the requirements of section 3311(c) of this title.

12       “(c) LIMITATION.—Reinstated payments shall not ex-  
13 ceed any unused portion of the educational benefits that  
14 were transferred to a spouse or dependent child pursuant  
15 to section 3319 of this title that remain unobligated at  
16 the time of discharge of the covered member.

17       “(d) DETERMINATION BY THE SECRETARY CON-  
18 CERNED.—The Secretary concerned may determine that  
19 the proximate cause of termination of education benefits  
20 is dependent-abuse, as specified in regulations prescribed  
21 in subsection (e), only if—

22               “(1) the record for the administrative separa-  
23 tion establishes, by a preponderance of evidence pre-  
24 sented, that the covered individual perpetrated a de-  
25 pendent-abuse offense; or

1           “(2) the covered individual is convicted of a de-  
2           pendent-abuse offense.

3           “(e) REVIEW OF DETERMINATIONS.—(1) The Sec-  
4           retary of Defense and the Secretary of Homeland Security  
5           shall, in coordination with the Secretary of Veterans Af-  
6           fairs, establish procedures by which a spouse or dependent  
7           child whose application for reinstatement of terminated  
8           educational assistance under subsection (b) is denied by  
9           the Secretary concerned may request the applicable Sec-  
10          retary review the application and denial.

11          “(2) Pursuant to a review by the Secretary of De-  
12          fense or the Secretary of Homeland Security under para-  
13          graph (1) of an application and denial, the Secretary of  
14          Defense or the Secretary of Homeland Security, as the  
15          case may be, may overturn the denial if the Secretary de-  
16          termines such denial was made in error.

17          “(3) The Secretary receiving a request for a review  
18          of an application and denial pursuant to the procedures  
19          required by paragraph (1) shall review the application and  
20          denial and respond to the request not later than 30 days  
21          after receiving the request.

22          “(4) The Secretary of Defense and the Secretary of  
23          Homeland Security shall, in coordination with the Sec-  
24          retary of Veterans Affairs, develop and make available to  
25          the public guidance on how a spouse or dependent child

1 may request a review pursuant to the procedures estab-  
2 lished under paragraph (1).

3 “(f) REGULATIONS.—(1) The Secretary of Defense  
4 and the Secretary of Homeland Security, in coordination  
5 with the Secretary of Veterans Affairs, shall prescribe reg-  
6 ulations to carry out this section.

7 “(2) Regulations under paragraph (1) shall include  
8 the following:

9 “(A) The procedure for application of reinstatement  
10 of education benefits.

11 “(B) The criminal offenses, or categories of offenses,  
12 under the Uniform Code of Military Justice (chapter 47  
13 of title 10), Federal criminal law, the criminal laws of the  
14 States and other jurisdictions of the United States, and  
15 the laws of other nations that are to be considered depend-  
16 ent-abuse offenses for the purposes of this section.

17 “(g) DEFINITIONS.—In this section:

18 “(1) The term ‘covered individual’ means a  
19 member of the Armed Forces described in section  
20 3311(b) of this title.

21 “(2) The term ‘dependent-abuse offense’ means  
22 conduct by a covered individual while a member of  
23 the Armed Forces on active duty for a period of  
24 more than 30 days that—

1           “(A) involves abuse of the spouse or a de-  
2           pendent child of the member; and

3           “(B) is a criminal offense specified in reg-  
4           ulations prescribed under subsection (e).

5           “(3) The term ‘dependent child’ has the mean-  
6           ing given such term in section 1408(h) of title 10.

7           “(4) The term ‘spouse’ means a person who  
8           was the beneficiary of transferred educational assist-  
9           ance payments at the time of discharge of a covered  
10          individual, who—

11           “(A) was married to the covered individual;

12          or

13           “(B) divorced such individual prior to dis-  
14          charge for, as determined by the Secretary con-  
15          cerned, reasons relating to a dependent abuse-  
16          offense that resulted in a discharge character-  
17          ization that does not meet the requirements of  
18          section 3311(c) of this title.”.

19          (b) CLERICAL AMENDMENT.—The table of sections  
20          at the beginning of chapter 33 of such title is amended  
21          by inserting after the item relating to section 3319 the  
22          following new item:

“Sec. 3319A. Victims of sexual assault and domestic violence; authority to re-  
tain transferred education benefits .”.

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