

114TH CONGRESS
1ST SESSION

S. 1958

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

Mr. MENENDEZ (for himself, Mr. BOOKER, Mrs. GILLIBRAND, Mr. FRANKEN, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish additional protections and disclosures for students and co-signers with respect to student loans, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Christopher Bryski Student Loan Protection Act” or
6 “Christopher’s Law”.

7 (b) FINDINGS.—Congress finds the following:

8 (1) According to the Bureau of Consumer Fi-
9 nancial Protection (hereafter referred to as the
10 “CFPB”) Student Loan Ombudsman:

1 (A) “The CFPB received more than 3,100
2 private student loan complaints and approxi-
3 mately 1,100 debt collection complaints related
4 to student loans between October 1, 2014, and
5 March 31, 2015.”

6 (B) “Co-signers complain that information
7 about discharge or alternative arrangements in
8 the case of death of the primary borrower is not
9 readily available and that decisions are made on
10 a case-by-case basis, giving co-signers little un-
11 derstanding of how the process works, or if they
12 will be successful.”

13 (C) “The complaints and input received by
14 the CFPB resemble many of the same issues
15 experienced by mortgage borrowers, such as im-
16 proper application of payments, untimeliness in
17 error resolution, and inability to contact appro-
18 priate personnel in times of hardship.”

19 (D) “The difference between federal and
20 private student loans in periods of disability
21 was not well-understood.”

22 (2) An estimated 1,700,000 people sustain a
23 traumatic brain injury each year, with older adoles-
24 cents aged 15 to 19 years old more likely to sustain
25 a traumatic brain injury than other age groups.

1 (3) It has been estimated that the annual inci-
2 dence of spinal cord injury, not including those who
3 die at the scene of an accident, is approximately 40
4 cases per 1,000,000 people in the United States or
5 approximately 12,000 new cases each year. These in-
6 juries can lead to permanent disability or loss of
7 movement and can prohibit the victim from engaging
8 in any substantial gainful activity.

9 (4) According to the CFPB, more than 90 per-
10 cent of new private student loans are co-signed.

11 (5) According to the CFPB, private student
12 loan companies provide co-signer release to less than
13 1 percent of eligible borrowers.

14 **SEC. 2. ADDITIONAL STUDENT LOAN PROTECTIONS.**

15 (a) IN GENERAL.—Section 140 of the Truth in Lend-
16 ing Act (15 U.S.C. 1650) is amended by adding at the
17 end the following:

18 “(g) ADDITIONAL PROTECTIONS RELATING TO BOR-
19 ROWER OR CO-SIGNER OF A PRIVATE EDUCATION
20 LOAN.—

21 “(1) CLEAR AND CONSPICUOUS DESCRIPTION
22 OF BORROWER’S AND CO-SIGNER’S OBLIGATION.—In
23 the case of any private educational lender who ex-
24 tends a private education loan, the lender shall
25 clearly and conspicuously describe, in writing, the

1 co-signer's obligations with respect to the loan, in-
2 cluding the effect the death, disability, or inability to
3 engage in any substantial gainful activity of the bor-
4 rower or any co-signer would have on any such obli-
5 gation, in language that the Bureau determines
6 would give a reasonable person a reasonable under-
7 standing of the obligation being assumed by becom-
8 ing a co-signer for the loan.

9 “(2) PROHIBITION ON AUTOMATIC DEFAULT
10 WITH RESPECT TO A PERFORMING LOAN.—

11 “(A) DEATH, DISABILITY, OR BANKRUPTCY
12 OF CO-SIGNER.—If a private education loan in-
13 cludes a co-signer, a private educational lender
14 may not take any adverse action (including de-
15 claring a default, accelerating any loan obliga-
16 tion, increasing the interest rate, or altering
17 any obligations under the private education loan
18 in a way that is adverse to the borrower)
19 against the borrower based on the death, dis-
20 ability, or inability to engage in any substantial
21 gainful activity or bankruptcy of a co-signer.

22 “(B) DEATH, DISABILITY, OR BANK-
23 RUPTCY OF BORROWER.—If a private education
24 loan includes a co-signer, a private educational
25 lender may not take any adverse action (includ-

1 ing declaring a default, accelerating any loan
2 obligation, increasing the interest rate, or alter-
3 ing any obligations under the private education
4 loan in a way that is adverse to any co-signer)
5 against the co-signer based on the death, dis-
6 ability, or inability to engage in any substantial
7 gainful activity, or bankruptcy of the borrower.

8 “(3) CO-SIGNER RELEASE.—

9 “(A) REQUIREMENTS FOR AUTOMATIC RE-
10 LEASE OF CO-SIGNER.—

11 “(i) CRITERIA ESTABLISHED BY THE
12 BUREAU.—Not later than 180 days after
13 the date of enactment of this subsection,
14 the Bureau shall establish criteria, which if
15 met by the borrower of a private education
16 loan, the private educational lender or
17 servicer of the private education loan shall
18 promptly release any co-signer from the
19 obligations of the co-signer under the loan
20 without requiring any action on behalf of
21 the borrower.

22 “(ii) CRITERIA ESTABLISHED BY
23 LENDER.—A private educational lender
24 may establish criteria for automatic release
25 that are different from the criteria de-

1 scribed in clause (i) if the criteria estab-
2 lished by the lender are not more restric-
3 tive with respect to the borrower or any co-
4 signer of the private education loan than
5 the criteria established under clause (i).

6 “(B) DISCLOSURE OF CRITERIA FOR CO-
7 SIGNER RELEASE.—A private educational lend-
8 er shall—

9 “(i) include in the promissory note of
10 a private education loan the criteria under
11 which a co-signer may be released from the
12 obligation of the co-signer under a private
13 education loan under this subparagraph;
14 and

15 “(ii) disclose to the borrower and any
16 co-signer at the time the private education
17 loan is consummated, clearly and conspicu-
18 ously, the criteria under which a co-signer
19 may be released from the obligation of the
20 co-signer under a private education loan.

21 “(C) MODIFICATIONS TO CRITERIA.—The
22 private educational lender, or servicer of a pri-
23 vate education loan, as applicable, may not
24 modify the criteria under which a co-signer may
25 be released from the obligation of the co-signer

1 under a private education loan if the modifica-
2 tion would be adverse to the borrower without
3 the consent of the borrower and applicable co-
4 signer.

5 “(D) NOTIFICATION ON RELEASE.—A pri-
6 vate educational lender, or servicer, as applica-
7 ble, shall promptly notify the borrower and any
8 co-signers for a private education loan if a co-
9 signer is released from the obligations of the co-
10 signer under the private education loan under
11 this subparagraph.

12 “(E) MODIFICATION OF EVALUATION OF
13 CREDITWORTHINESS, CREDIT STANDING, OR
14 CREDIT CAPACITY.—In determining whether the
15 criteria for a co-signer release are met, a pri-
16 vate educational lender or servicer of a private
17 education loan, as applicable, may not evaluate
18 the creditworthiness, credit standing, or credit
19 capacity of the borrower or a co-signer of the
20 private education loan using a standard that
21 would be more adverse to the borrower or co-
22 signer, as applicable, than the standard the pri-
23 vate educational lender used to evaluate the
24 creditworthiness, credit standing, or credit ca-
25 pacity of the borrower or co-signer on the date

1 on which the private education loan was con-
2 summed.

3 “(4) DESIGNATION OF INDIVIDUAL TO ACT ON
4 BEHALF OF THE BORROWER.—In the case of any
5 private educational lender who extends a private
6 education loan, the lender shall provide the borrower
7 an option to designate an individual to have the
8 legal authority to act on behalf of the borrower with
9 respect to the private education loan in the event of
10 the borrower’s death, disability, or inability to en-
11 gage in any substantial gainful activity.

12 “(5) COUNSELING.—In the case of any private
13 educational lender who extends a private education
14 loan, the lender shall ensure that the borrower, and
15 any co-signer, receives comprehensive information on
16 the terms and conditions of the loan and of the re-
17 sponsibilities the borrower has with respect to such
18 loan, including the information described under sub-
19 paragraphs (H), (I), (K), (L), (M), and (N) of sec-
20 tion 485(1)(2) of the Higher Education Act of 1965
21 (20 U.S.C. 1092(1)(2)).

22 “(6) MODEL FORM.—The Bureau shall publish
23 a model form under section 105 for describing a co-
24 signer’s obligation for purposes of paragraph (1).

1 “(7) DEFINITION OF DEATH, DISABILITY, OR
 2 INABILITY TO ENGAGE IN ANY SUBSTANTIAL GAIN-
 3 FUL ACTIVITY.—For the purposes of this subsection
 4 with respect to a borrower or co-signer, the term
 5 ‘death, disability, or inability to engage in any sub-
 6 stantial gainful activity’—

7 “(A) means any condition described in sec-
 8 tion 437(a) of the Higher Education Act of
 9 1965 (20 U.S.C. 1087(a)); and

10 “(B) shall be interpreted by the Bureau in
 11 such a manner as to conform with the regula-
 12 tions prescribed by the Secretary of Education
 13 under section 437(a) of such Act (20 U.S.C.
 14 1087(a)) to the fullest extent practicable, in-
 15 cluding safeguards to prevent fraud and
 16 abuse.”.

17 (b) DEFINITIONS.—Subsection (a) of section 140 of
 18 the Truth in Lending Act (15 U.S.C. 1650(a)) is amend-
 19 ed—

20 (1) by redesignating paragraphs (1) through
 21 (8) as paragraphs (2) through (9), respectively; and

22 (2) by inserting before paragraph (2) (as redesi-
 23 gnated by paragraph (1)) the following:

24 “(1) the term ‘co-signer’—

1 “(A) means any individual who is liable for
2 the obligation of another without compensation,
3 regardless of how designated in the contract or
4 instrument;

5 “(B) includes any person whose signature
6 is requested as condition to grant credit or to
7 forbear on collection; and

8 “(C) does not include a spouse of an indi-
9 vidual referred to in subparagraph (A) whose
10 signature is needed to perfect the security inter-
11 est in the loan;”.

12 (c) RULEMAKING.—Not later than the end of the 1-
13 year period following the date of the enactment of this
14 Act, the Bureau of Consumer Financial Protection shall
15 issue regulations to carry out section 140(g) of the Truth
16 in Lending Act.

17 **SEC. 3. FEDERAL STUDENT LOANS.**

18 (a) COUNSELING INFORMATION.—Section 485(l)(2)
19 of the Higher Education Act of 1965 (20 U.S.C.
20 1092(l)(2)) is amended by adding at the end the following:

21 “(L) Information on the conditions re-
22 quired to discharge the loan due to the death,
23 disability, or inability to engage in any substan-
24 tial gainful activity of the borrower in accord-
25 ance with section 437(a).

1 “(M) Any repayment, refinance, deferment,
2 forbearance, or forgiveness opportunities avail-
3 able to the borrower, or co-signer, in the event
4 of either individual’s death, disability, or inabil-
5 ity to engage in any substantial gainful activity.

6 “(N) The effect that the death, disability,
7 or inability to engage in any substantial gainful
8 activity of the borrower would have on the obli-
9 gations of the borrower and any co-signer of the
10 loan.”.

11 (b) DESIGNATION OF INDIVIDUAL TO ACT ON BE-
12 HALF OF THE BORROWER.—Section 484 of the Higher
13 Education Act of 1965 (20 U.S.C. 1091) is amended—

14 (1) in subsection (a), by striking paragraph (4)
15 and inserting the following:

16 “(4) file with the Secretary, as part of the
17 original financial aid application process, a certifi-
18 cation, which need not be notarized, but which—

19 “(A) shall include—

20 “(i) a statement of educational pur-
21 pose stating that the money attributable to
22 such grant, loan, or loan guarantee will be
23 used solely for expenses related to attend-
24 ance or continued attendance at such insti-
25 tution; and

1 “(ii) such student’s social security
2 number; and

3 “(B) may include a designation by such
4 student of an individual who shall have the
5 legal authority to act on behalf of the student
6 with respect to any loan to the student under
7 this title in the event of the student’s death,
8 disability, or inability to engage in any substan-
9 tial gainful activity;”; and
10 (2) by adding at the end the following:

11 “(u) OPTION TO DESIGNATE INDIVIDUAL TO ACT ON
12 BEHALF OF THE BORROWER IN CLEAR AND CON-
13 SPICUOUS MANNER.—The option for a student to make
14 a designation described in subsection (a)(4)(B) shall be
15 provided in a clear and conspicuous manner to the stu-
16 dent.”.

17 **SEC. 4. RULE OF CONSTRUCTION.**

18 Nothing in this Act, or an amendment made by this
19 Act, shall be construed to adversely affect the eligibility
20 of a student to receive any grant, loan, or work assistance
21 under part C or part G of title IV of the Higher Education
22 Act of 1965 (42 U.S.C. 2751 et seq. and 20 U.S.C. 1088
23 et seq.) based on a designation, or lack thereof, under sec-

1 tion 484(a)(4)(B) of that Act, as added by section 3(b)
2 of this Act.

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