

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

co-signer's obligations with respect to the loan, including the effect the death, disability, or inability to engage in any substantial gainful activity of the borrower or any co-signer would have on any such obligation, in language that the Bureau determines would give a reasonable person a reasonable understanding of the obligation being assumed by becoming a co-signer for the loan.

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

“(A) DEATH, DISABILITY, OR BANKRUPTCY OF CO-SIGNER.—If a private education loan includes a co-signer, a private educational lender may not take any adverse action (including declaring a default, accelerating any loan obligation, increasing the interest rate, or altering any obligations under the private education loan in a way that is adverse to the borrower) against the borrower based on the death, disability, or inability to engage in any substantial gainful activity or bankruptcy of a co-signer.

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

ing declaring a default, accelerating any loan obligation, increasing the interest rate, or altering any obligations under the private education loan in a way that is adverse to any co-signer) against the co-signer based on the death, disability, or inability to engage in any substantial gainful activity, or bankruptcy of the borrower.

“(3) CO-SIGNER RELEASE.—

“(A) REQUIREMENTS FOR AUTOMATIC RELEASE OF CO-SIGNER.—

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

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

scribed in clause (i) if the criteria established by the lender are not more restrictive with respect to the borrower or any co-signer of the private education loan than the criteria established under clause (i).

“(B) DISCLOSURE OF CRITERIA FOR CO-SIGNER RELEASE.—A private educational lender shall—

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

“(ii) disclose to the borrower and any co-signer at the time the private education loan is consummated, clearly and conspicuously, the criteria under which a co-signer may be released from the obligation of the co-signer under a private education loan.

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

under a private education loan if the modification would be adverse to the borrower without the consent of the borrower and applicable co-signer.

“(D) NOTIFICATION ON RELEASE.—A private educational lender, or servicer, as applicable, shall promptly notify the borrower and any co-signers for a private education loan if a co-signer is released from the obligations of the co-signer under the private education loan under this subparagraph.

“(E) MODIFICATION OF EVALUATION OF CREDITWORTHINESS, CREDIT STANDING, OR CREDIT CAPACITY.—In determining whether the criteria for a co-signer release are met, a private educational lender or servicer of a private education loan, as applicable, may not evaluate the creditworthiness, credit standing, or credit capacity of the borrower or a co-signer of the private education loan using a standard that would be more adverse to the borrower or co-signer, as applicable, than the standard the private educational lender used to evaluate the creditworthiness, credit standing, or credit capacity 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(l)(2) of the Higher Education Act of 1965
21 (20 U.S.C. 1092(l)(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 redес-
 23 ignated 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).

“(M) Any repayment, refinance, deferment, forbearance, or forgiveness opportunities available to the borrower, or co-signer, in the event of either individual’s death, disability, or inability to engage in any substantial gainful activity.

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

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

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

“(4) file with the Secretary, as part of the original financial aid application process, a certification, which need not be notarized, but which—

“(A) shall include—

“(i) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; 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.

