

115TH CONGRESS  
1ST SESSION

# S. 2180

To establish additional protections and disclosures for students and co-signers with respect to student loans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2017

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

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## 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:

1           (1) The Bureau of Consumer Financial Protec-  
2           tion (referred to in this section as the “CFPB”)  
3           Student Loan Ombudsman stated the following:

4                   (A) “The CFPB received more than 7,700  
5                   private student loan complaints and approxi-  
6                   mately 2,300 debt collection complaints related  
7                   to student loans between September 1, 2016,  
8                   and August 31, 2017.”.

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

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

22                  (D) “The difference between Federal and  
23                  private student loans in periods of disability  
24                  was not well-understood.”.

1           (2) An estimated 2,500,000 individuals sustain  
2 a traumatic brain injury each year and older adoles-  
3 cents between 15 and 19 years of age are more like-  
4 ly to sustain a traumatic brain injury than individ-  
5 uals in other age groups.

6           (3) It has been estimated that the annual inci-  
7 dence of spinal cord injury, not including those indi-  
8 viduals who die at the scene of an accident, is ap-  
9 proximately 54 cases per 1,000,000 individuals in  
10 the United States, or approximately 17,000 new  
11 cases each year. These injuries can lead to perma-  
12 nent disability or loss of movement and can prohibit  
13 the victim from engaging in any substantial gainful  
14 activity.

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

17           (5) According to the CFPB, private student  
18 loan companies provide co-signer release to less than  
19 1 percent of eligible borrowers.

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

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

1       “(g) ADDITIONAL PROTECTIONS RELATING TO BOR-  
2       ROWER OR CO-SIGNER OF A PRIVATE EDUCATION  
3       LOAN.—

4               “(1) CLEAR AND CONSPICUOUS DESCRIPTION  
5       OF OBLIGATION OF BORROWER AND CO-SIGNER.—In  
6       the case of any private educational lender that pro-  
7       vides a private education loan, the lender shall clear-  
8       ly and conspicuously describe, in writing, the obliga-  
9       tions of a co-signer with respect to the loan, includ-  
10      ing the effect that the death, disability, or inability  
11      to engage in any substantial gainful activity of the  
12      borrower or any co-signer would have on any such  
13      obligation, in language that the Bureau determines  
14      would give a reasonable person a reasonable under-  
15      standing of the obligation being assumed by becom-  
16      ing a co-signer for the loan.

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

19                      “(A) DEATH, DISABILITY, OR BANKRUPTCY  
20      OF CO-SIGNER.—If a private education loan in-  
21      cludes a co-signer, a private educational lender  
22      may not take any adverse action (including de-  
23      claring a default, accelerating any loan obliga-  
24      tion, increasing the interest rate, or altering  
25      any obligations under the private education loan

1 in a way that is adverse to the borrower)  
2 against the borrower based on—

3 “(i) the death, disability, or inability  
4 to engage in any substantial gainful activ-  
5 ity of the co-signer; or

6 “(ii) the bankruptcy of the co-signer.

7 “(B) DEATH, DISABILITY, OR BANK-  
8 RUPTCY OF BORROWER.—If a private education  
9 loan includes a co-signer, a private educational  
10 lender may not take any adverse action (includ-  
11 ing declaring a default, accelerating any loan  
12 obligation, increasing the interest rate, or alter-  
13 ing any obligations under the private education  
14 loan in a way that is adverse to any co-signer)  
15 against the co-signer based on—

16 “(i) the death, disability, or inability  
17 to engage in any substantial gainful activ-  
18 ity of the borrower; or

19 “(ii) the bankruptcy of the borrower.

20 “(3) CO-SIGNER RELEASE.—

21 “(A) REQUIREMENTS FOR AUTOMATIC RE-  
22 LEASE OF CO-SIGNER.—

23 “(i) CRITERIA ESTABLISHED BY THE  
24 BUREAU.—Not later than 180 days after  
25 the date of enactment of this subsection,

1 the Bureau shall establish criteria, which,  
2 if met by the borrower of a private edu-  
3 cation loan, shall require the private edu-  
4 cational lender with respect to, or servicer  
5 of, the private education loan, as applica-  
6 ble, to promptly release any co-signer from  
7 the obligations of the co-signer under the  
8 loan without requiring any action on behalf  
9 of the borrower.

10 “(ii) CRITERIA ESTABLISHED BY  
11 LENDER.—A private educational lender  
12 may establish criteria for automatic release  
13 that are different from the criteria de-  
14 scribed in clause (i) if the criteria estab-  
15 lished by the lender are not more restric-  
16 tive with respect to the borrower or any co-  
17 signer of the private education loan than  
18 the criteria established under clause (i).

19 “(B) DISCLOSURE OF CRITERIA FOR CO-  
20 SIGNER RELEASE.—A private educational lend-  
21 er shall—

22 “(i) include in the promissory note of  
23 a private education loan the criteria under  
24 which a co-signer may be released from the

1 obligation of the co-signer under a private  
2 education loan under this paragraph; and

3 “(ii) disclose to the borrower and any  
4 co-signer at the time the private education  
5 loan is consummated, clearly and conspicu-  
6 ously, the criteria under which a co-signer  
7 may be released from the obligation of the  
8 co-signer under a private education loan.

9 “(C) MODIFICATIONS TO CRITERIA.—If a  
10 private education loan has a co-signer, the pri-  
11 vate educational lender with respect to, or  
12 servicer of, the private education loan, as appli-  
13 cable, may not modify the criteria under which  
14 the co-signer may be released from the obliga-  
15 tion of the co-signer under the private edu-  
16 cation loan without the consent of the borrower  
17 and the co-signer if the modification would be  
18 adverse to the borrower.

19 “(D) NOTIFICATION ON RELEASE.—A pri-  
20 vate educational lender with respect to, or  
21 servicer of, a private education loan, as applica-  
22 ble, shall promptly notify the borrower and any  
23 co-signers for the private education loan if a co-  
24 signer is released from the obligations of the co-

1           signer under the private education loan under  
2           this paragraph.

3           “(E) MODIFICATION OF EVALUATION OF  
4           CREDITWORTHINESS, CREDIT STANDING, OR  
5           CREDIT CAPACITY.—In determining whether the  
6           criteria for a co-signer release are met, a pri-  
7           vate educational lender with respect to, or  
8           servicer of, a private education loan, as applica-  
9           ble, may not evaluate the creditworthiness,  
10          credit standing, or credit capacity of the bor-  
11          rower or a co-signer of the private education  
12          loan using a standard that would be more ad-  
13          verse to the borrower or co-signer, as applica-  
14          ble, than the standard the private educational  
15          lender used to evaluate the creditworthiness,  
16          credit standing, or credit capacity of the bor-  
17          rower or co-signer on the date on which the pri-  
18          vate education loan was consummated.

19          “(4) DESIGNATION OF INDIVIDUAL TO ACT ON  
20          BEHALF OF THE BORROWER.—In the case of any  
21          private educational lender that extends a private  
22          education loan, the lender shall provide the borrower  
23          an option to designate an individual to have the  
24          legal authority to act on behalf of the borrower with  
25          respect to the private education loan in the event of



1 the death, disability, or inability to engage in any  
2 substantial gainful activity of the borrower.

3 “(5) COUNSELING.—In the case of any private  
4 educational lender that extends a private education  
5 loan, the lender shall ensure that the borrower, and  
6 any co-signer, receives comprehensive information on  
7 the terms and conditions of the loan and of the re-  
8 sponsibilities the borrower has with respect to the  
9 loan, including the information required under sub-  
10 paragraphs (H), (I), (K), (L), (M), and (N) of sec-  
11 tion 485(l)(2) of the Higher Education Act of 1965  
12 (20 U.S.C. 1092(l)(2)).

13 “(6) MODEL FORM.—The Bureau shall publish  
14 a model form under section 105 for describing the  
15 obligation of a co-signer for the purposes of para-  
16 graph (1).

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

23 “(A) means any condition described in sec-  
24 tion 437(a) of the Higher Education Act of  
25 1965 (20 U.S.C. 1087(a)); and

1           “(B) shall be interpreted by the Bureau in  
2           such a manner as to conform with the regula-  
3           tions prescribed by the Secretary of Education  
4           under section 437(a) of the Higher Education  
5           Act of 1965 (20 U.S.C. 1087(a)) to the fullest  
6           extent practicable, including safeguards to pre-  
7           vent fraud and abuse.”.

8           (b) DEFINITIONS.—Section 140(a) of the Truth in  
9 Lending Act (15 U.S.C. 1650(a)) is amended—

10           (1) by redesignating paragraphs (1) through  
11           (8) as paragraphs (2) through (9), respectively; and

12           (2) by inserting before paragraph (2), as so re-  
13 designated, the following:

14           “(1) the term ‘co-signer’—

15           “(A) means any individual who is liable for  
16           the obligation of another without compensation,  
17           regardless of how designated in the contract or  
18           instrument with respect to that obligation;

19           “(B) includes any person the signature of  
20           which is requested as condition to grant credit  
21           or to forbear on collection; and

22           “(C) does not include a spouse of an indi-  
23           vidual described in subparagraph (A), the sig-  
24           nature of whom is needed to perfect the secu-  
25           rity interest in a loan;”.

1 (c) RULEMAKING.—Not later than 1 year after the  
2 date of enactment of this Act, the Bureau of Consumer  
3 Financial Protection shall issue regulations to carry out  
4 subsection (g) of section 140 of the Truth in Lending Act  
5 (15 U.S.C. 1650), as added by paragraph (1).

6 **SEC. 3. FEDERAL STUDENT LOANS.**

7 (a) COUNSELING INFORMATION.—Section 485(l)(2)  
8 of the Higher Education Act of 1965 (20 U.S.C.  
9 1092(l)(2)) is amended by adding at the end the following:

10 “(L) Information regarding the conditions  
11 required to discharge the loan due to the death,  
12 disability, or inability to engage in any substan-  
13 tial gainful activity of the borrower in accord-  
14 ance with section 437(a).

15 “(M) Any repayment, refinance, deferment,  
16 forbearance, or forgiveness opportunities avail-  
17 able to the borrower or co-signer in the event  
18 of the death, disability, or inability to engage in  
19 any substantial gainful activity of the borrower  
20 or co-signer.

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

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

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

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

9 “(A) shall include—

10 “(i) a statement of educational pur-  
11 pose stating that the money attributable to  
12 such grant, loan, or loan guarantee will be  
13 used solely for expenses related to attend-  
14 ance or continued attendance at such insti-  
15 tution; and

16 “(ii) such student’s social security  
17 number; and

18 “(B) may include a designation by such  
19 student of an individual who shall have the  
20 legal authority to act on behalf of the student  
21 with respect to any loan to the student under  
22 this title in the event of the student’s death,  
23 disability, or inability to engage in any substan-  
24 tial gainful activity;”; and

25 (2) by adding at the end the following:

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

7 **SEC. 4. RULE OF CONSTRUCTION.**

8       Nothing in this Act, or any amendment made by this  
9 Act, may be construed to adversely affect the eligibility  
10 of a student to receive any grant, loan, or work assistance  
11 under part C or part G of title IV of the Higher Education  
12 Act of 1965 (20 U.S.C. 1087–51 et seq. and 20 U.S.C.  
13 1088 et seq.) based on a designation, or the lack of a des-  
14 ignation, under section 484(a)(4)(B) of that Act (20  
15 U.S.C. 1091(a)(4)(B)), as added by section 3(b)(1).

○