

115TH CONGRESS  
2D SESSION

# S. 3371

To provide consumer protections for students.

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IN THE SENATE OF THE UNITED STATES

AUGUST 23, 2018

Mr. MERKLEY (for himself and Mr. DURBIN) introduced the following bill;  
which was read twice and referred to the Committee on Health, Edu-  
cation, Labor, and Pensions

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## A BILL

To provide consumer protections for students.

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 “Protecting Students  
5 from Worthless Degrees Act”.

6 **SEC. 2. CONSUMER PROTECTIONS FOR STUDENTS.**

7 (a) DEFINITIONS.—In this section:

8 (1) FEDERAL FINANCIAL ASSISTANCE PRO-  
9 GRAM.—The term “Federal financial assistance pro-  
10 gram” means a program authorized and funded by

1 the Federal Government under any of the following  
2 provisions of law:

3 (A) Title IV of the Higher Education Act  
4 of 1965 (20 U.S.C. 1070 et seq.).

5 (B) Title I of the Workforce Innovation  
6 and Opportunity Act (29 U.S.C. 3111 et seq.)  
7 and title I of the Workforce Investment Act of  
8 1998 (29 U.S.C. 2801 et seq.).

9 (C) The Adult Education and Family Lit-  
10 eracy Act (29 U.S.C. 3271 et seq.).

11 (D) Chapter 30, 31, 32, 33, 34, or 35 of  
12 title 38, United States Code.

13 (E) Chapter 101, 105, 106A, 1606, 1607,  
14 or 1608 of title 10, United States Code.

15 (F) Section 1784a, 2005, or 2007 of title  
16 10, United States Code.

17 (2) INSTITUTION OF HIGHER EDUCATION.—The  
18 term “institution of higher education”—

19 (A) with respect to a program authorized  
20 under paragraph (1)(A), has the meaning given  
21 the term in section 102 of the Higher Edu-  
22 cation Act of 1965 (20 U.S.C. 1002);

23 (B) with respect to—

24 (i) a program authorized under title I  
25 of the Workforce Investment Act of 1998

1 (29 U.S.C. 2801 et seq.), has the meaning  
2 given the term “postsecondary educational  
3 institution” as defined in section 101 of  
4 the Workforce Investment Act of 1998 (29  
5 U.S.C. 2801), on the day before the date  
6 of enactment of the Workforce Innovation  
7 and Opportunity Act (Public Law 113–  
8 128); and

9 (ii) a program authorized under title I  
10 of the Workforce Innovation and Oppor-  
11 tunity Act (29 U.S.C. 3111 et seq.), has  
12 the meaning given the term in section 3 of  
13 the Workforce Innovation and Opportunity  
14 Act (29 U.S.C. 3102);

15 (C) with respect to a program authorized  
16 under paragraph (1)(C), has the meaning given  
17 the term “postsecondary educational institu-  
18 tion” as defined in section 203 of the Adult  
19 Education and Family Literacy Act (29 U.S.C.  
20 3272);

21 (D) with respect to a program authorized  
22 under paragraph (1)(D), has the meaning given  
23 the term “educational institution” under section  
24 3452 of title 38, United States Code;

1           (E) with respect to a program authorized  
 2           under paragraph (1)(E), means an educational  
 3           institution that awards a degree or certificate  
 4           and is located in any State; and

5           (F) with respect to a program authorized  
 6           under paragraph (1)(F), means an educational  
 7           institution that awards a degree or certificate  
 8           and is located in any State.

9           (3) STATE.—

10           (A) STATE.—The term “State” includes,  
 11           in addition to the several States of the United  
 12           States, the Commonwealth of Puerto Rico, the  
 13           District of Columbia, Guam, American Samoa,  
 14           the United States Virgin Islands, the Common-  
 15           wealth of the Northern Mariana Islands, and  
 16           the freely associated States.

17           (B) FREELY ASSOCIATED STATES.—The  
 18           term “freely associated States” means the Re-  
 19           public of the Marshall Islands, the Federated  
 20           States of Micronesia, and the Republic of  
 21           Palau.

22           (b) CONSUMER PROTECTIONS.—Notwithstanding  
 23           any other provision of law, an institution of higher edu-  
 24           cation is not eligible to participate in a Federal financial  
 25           assistance program with respect to any program of post-

1 secondary education or training, including a degree or cer-  
2 tificate program, that is designed to prepare students for  
3 entry into a recognized occupation or profession that re-  
4 quires licensing or other established requirements as a  
5 pre-condition for entry into such occupation or profession,  
6 unless, by not later than 1 year after the date of enact-  
7 ment of this Act—

8           (1) the successful completion of the program  
9           fully qualifies a student, in the Metropolitan Statis-  
10          tical Area and State in which the student resides  
11          (and in any State in which the institution indicates,  
12          through advertising or marketing activities or direct  
13          contact with potential students, that a student will  
14          be prepared to work in the occupation or profession  
15          after successfully completing the program), to—

16                   (A) take any examination required for  
17                   entry into the recognized occupation or profes-  
18                   sion in the Metropolitan Statistical Area and  
19                   State in which the student resides, including  
20                   satisfying all Federal, State, or professionally  
21                   mandated programmatic and specialized accred-  
22                   itation requirements, if any; and

23                   (B) be certified or licensed or meet any  
24                   other academically related pre-conditions that

1           are required for entry into the recognized occu-  
2           pation or profession in the State; and

3           (2) the institution offering the program pro-  
4           vides timely placement for all of the academically re-  
5           lated pre-licensure requirements for entry into the  
6           recognized occupation or profession, such as clinical  
7           placements, internships, or apprenticeships.

8   **SEC. 3. CERTIFICATION REQUIREMENTS FOR GAINFUL EM-**  
9                                   **PLOYMENT PROGRAMS.**

10          Section 487 of the Higher Education Act of 1965 (20  
11   U.S.C. 1094) is amended—

12           (1) in subsection (a), by adding at the end the  
13   following:

14           “(30) The institution will provide to the Sec-  
15   retary not later than the first December 31 following  
16   the date of enactment of Protecting Students from  
17   Worthless Degrees Act, in accordance with proce-  
18   dures established by the Secretary, a certification  
19   signed by the most senior executive officer of the in-  
20   stitution that each of the eligible gainful employment  
21   programs included on the eligibility and certification  
22   approval report of the institution meets the require-  
23   ments of subsection (k).”;

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

1       “(k) CERTIFICATION REQUIREMENTS FOR GE PRO-  
2 GRAMS.—Each of the eligible gainful employment pro-  
3 grams included on the eligibility and certification approval  
4 report of an institution of higher education shall comply  
5 with each of the following:

6           “(1) The gainful employment program is ap-  
7 proved by a recognized accrediting agency or is oth-  
8 erwise included in the institution’s accreditation by  
9 its recognized accrediting agency, or, if the institu-  
10 tion is a public postsecondary vocational institution,  
11 the program is approved by a recognized State agen-  
12 cy for the approval of public postsecondary voca-  
13 tional education in lieu of accreditation.

14           “(2) The gainful employment program is pro-  
15 grammatically accredited, if such accreditation is re-  
16 quired by a Federal governmental entity or by a gov-  
17 ernmental entity in the State in which the institu-  
18 tion is located or in which the institution is other-  
19 wise required to obtain State approval pursuant to  
20 section 600.9 of title 34, Code of Federal Regula-  
21 tions, or a similar successor regulation.

22           “(3) The gainful employment program satisfies  
23 the applicable educational prerequisites for profes-  
24 sional licensure or certification requirements in the  
25 State in which the institution is located or in which

1 the institution is otherwise required to obtain State  
2 approval pursuant to section 600.9 of title 34, Code  
3 of Federal Regulations, or a similar successor regu-  
4 lation, so that a student who completes the program  
5 and seeks employment in such a State qualifies to  
6 take any licensure or certification exam that is need-  
7 ed for the student to practice or find employment in  
8 an occupation that the program prepares students to  
9 enter.

10 “(4) The gainful employment program is not  
11 substantially similar to a program offered by the in-  
12 stitution that, in any of the 3 years prior to the date  
13 of the determination, became ineligible for funding  
14 under this title due to the debt to earning rates  
15 measure or was failing, or in the zone with respect  
16 to, the debt to earning rates measure and was volun-  
17 tarily discontinued by the institution. The institution  
18 shall include with its certification an explanation of  
19 how the gainful employment program is not substan-  
20 tially similar to any such ineligible or discontinued  
21 program.”.

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