

116TH CONGRESS
1ST SESSION

S. 1153

To explicitly make unauthorized access to Department of Education information technology systems and the misuse of identification devices issued by the Department of Education a criminal act.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Ms. BALDWIN (for herself, Mr. BRAUN, Mrs. SHAHEEN, and Mrs. FISCHER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To explicitly make unauthorized access to Department of Education information technology systems and the misuse of identification devices issued by the Department of Education a criminal act.

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 “Stop Student Debt
5 Relief Scams Act of 2019”.

1 **SEC. 2. CRIMINAL PENALTIES.**

2 (a) IN GENERAL.—Section 490 of the Higher Edu-
3 cation Act of 1965 (20 U.S.C. 1097) is amended by add-
4 ing at the end the following:

5 “(e) ACCESS TO DEPARTMENT OF EDUCATION IN-
6 FORMATION TECHNOLOGY SYSTEMS FOR FRAUD, COM-
7 Mercial Advantage, or Private Financial Gain.—
8 Any person who knowingly uses an access device, as de-
9 fined in section 1029(e)(1) of title 18, United States Code,
10 issued to another person or obtained by fraud or false
11 statement to access Department information technology
12 systems for purposes of obtaining commercial advantage
13 or private financial gain, or in furtherance of any criminal
14 or tortious act in violation of the Constitution or laws of
15 the United States or of any State, shall be fined not more
16 than \$20,000, imprisoned for not more than 5 years, or
17 both.”.

18 (b) GUIDANCE.—The Secretary shall issue guidance
19 regarding the use of access devices in a manner that com-
20 plies with this Act, and the amendments made by this Act.

21 (c) EFFECTIVE DATE OF PENALTIES.—Notwith-
22 standing section 6, the penalties described in section
23 490(e) of the Higher Education Act of 1965 (20 U.S.C.
24 1097), as added by subsection (a), shall take effect the
25 day after the date on which the Secretary issues guidance

1 regarding the use of access devices, as described in sub-
 2 section (b).

3 **SEC. 3. LOAN COUNSELING.**

4 Section 485(b) of the Higher Education Act of 1965
 5 (20 U.S.C. 1092(b)) is amended—

6 (1) in clause (viii), by striking “and” after the
 7 semicolon; and

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

9 “(x) an explanation that—

10 “(I) the borrower may be con-
 11 tacted during the repayment period by
 12 third-party student debt relief compa-
 13 nies;

14 “(II) the borrower should use
 15 caution when dealing with those com-
 16 panies; and

17 “(III) the services that those
 18 companies typically provide are al-
 19 ready offered to borrowers free of
 20 charge through the Department or the
 21 borrower’s servicer; and”.

22 **SEC. 4. PREVENTION OF IMPROPER ACCESS.**

23 Section 485B of the Higher Education Act of 1965
 24 (20 U.S.C. 1092b) is amended—

1 (1) by redesignating subsections (e) through (h)
 2 as subsections (f) through (i), respectively;

3 (2) in subsection (d)—

4 (A) in paragraph (5)(C), by striking “and”
 5 after the semicolon;

6 (B) in paragraph (6)(C), by striking the
 7 period at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(7) preventing access to the data system and
 10 any other system used to administer a program
 11 under this title by any person or entity for the pur-
 12 pose of assisting a student in managing loan repay-
 13 ment or applying for any repayment plan, consolida-
 14 tion loan, or other benefit authorized by this title,
 15 unless such access meets the requirements described
 16 in subsection (e).”;

17 (3) by inserting after subsection (d) the fol-
 18 lowing:

19 “(e) REQUIREMENTS FOR THIRD-PARTY DATA SYS-
 20 TEM ACCESS.—

21 “(1) IN GENERAL.—As provided in paragraph
 22 (7) of subsection (d), an authorized person or entity
 23 described in paragraph (2) may access the data sys-
 24 tem and any other system used to administer a pro-
 25 gram under this title if that access—

1 “(A) is in compliance with terms of service,
2 information security standards, and a code of
3 conduct which shall be established by the Sec-
4 retary and published in the Federal Register;

5 “(B) is obtained using an access device (as
6 defined in section 1029(e)(1) of title 18, United
7 States Code) issued by the Secretary to the au-
8 thorized person or entity; and

9 “(C) is obtained without using any access
10 device (as defined in section 1029(e)(1) of title
11 18, United States Code) issued by the Secretary
12 to a student, borrower, or parent.

13 “(2) AUTHORIZED PERSON OR ENTITY.—An
14 authorized person or entity described in this para-
15 graph means—

16 “(A) a guaranty agency, eligible lender, or
17 eligible institution, or a third-party organization
18 acting on behalf of a guaranty agency, eligible
19 lender, or eligible institution, that is in compli-
20 ance with applicable Federal law (including reg-
21 ulations and guidance); or

22 “(B) a licensed attorney representing a
23 student, borrower, or parent, or another indi-
24 vidual who works for a Federal, State, local, or
25 Tribal government or agency, or for a nonprofit

1 organization, providing financial or student loan
2 repayment counseling to a student, borrower, or
3 parent, if—

4 “(i) that attorney or other individual
5 has never engaged in unfair, deceptive, or
6 abusive practices, as determined by the
7 Secretary;

8 “(ii) that attorney or other individual
9 does not work for an entity that has en-
10 gaged in unfair, deceptive, or abusive prac-
11 tices (including an entity that is owned or
12 operated by a person or entity that en-
13 gaged in such practices), as determined by
14 the Secretary;

15 “(iii) system access is provided only
16 through a separate point of entry; and

17 “(iv) the attorney or other individual
18 has consent from the relevant student, bor-
19 rower, or parent to access the system.”;
20 and

21 (4) in subsection (f)(1), as redesignated by
22 paragraph (1)—

23 (A) in subparagraph (A), by striking “stu-
24 dent and parent” and inserting “student, bor-
25 rower, and parent”;

1 (B) by redesignating subparagraphs (C)
 2 and (D) as subparagraphs (D) and (E), respec-
 3 tively;

4 (C) by inserting after subparagraph (B)
 5 the following:

6 “(C) the reduction in improper data sys-
 7 tem access as described in subsection (d)(7);”;
 8 and

9 (D) by striking subparagraph (E), as re-
 10 designated by subparagraph (B), and inserting
 11 the following:

12 “(E) any protocols, codes of conduct,
 13 terms of service, or information security stand-
 14 ards developed under paragraphs (6) or (7) of
 15 subsection (d) during the preceding fiscal
 16 year.”.

17 **SEC. 5. AGENCY PREVENTION AND DETECTION.**

18 Section 141(b)(2) of the Higher Education Act of
 19 1965 (20 U.S.C. 1018(b)(2)) is amended by adding at the
 20 end the following:

21 “(C) Taking action to prevent and address
 22 the improper use of access devices, as described
 23 in section 485B(d)(7), including by—

24 “(i) detecting common patterns of im-
 25 proper use of any system that processes

1 payments on Federal Direct Loans or
2 other Department information technology
3 systems;

4 “(ii) maintaining a reporting system
5 for contractors involved in the processing
6 of payments on Federal Direct Loans in
7 order to allow those contractors to alert
8 the Secretary of potentially improper use
9 of Department information technology sys-
10 tems;

11 “(iii) proactively contacting Federal
12 student loan borrowers whose Federal stu-
13 dent loan accounts demonstrate a likeli-
14 hood of improper use in order to warn
15 those borrowers of suspicious activity or
16 potential fraud regarding their Federal
17 student loan accounts; and

18 “(iv) providing clear and simple dis-
19 closures in communications with borrowers
20 who are applying for or requesting assist-
21 ance with Federal Direct Loan programs
22 (including assistance or applications re-
23 garding income-driven repayment, forbear-
24 ance, deferment, consolidation, rehabilita-
25 tion, cancellation, and forgiveness) to en-

1 sure that borrowers are aware that the De-
2 partment will never require borrowers to
3 pay for such assistance or applications.”.

4 **SEC. 6. EFFECTIVE DATE.**

5 This Act, and the amendments made by this Act,
6 shall take effect on the date that is 180 days after the
7 date of enactment of this Act.

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