S. 1153

AN ACT

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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Student Debt Relief Scams Act of 2019".

SEC. 2. CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 490 of the Higher Education Act of 1965 (20 U.S.C. 1097) is amended by adding at the end the following:

"(e) ACCESS TO DEPARTMENT OF EDUCATION IN-FORMATION TECHNOLOGY SYSTEMS FOR FRAUD, COMMERCIAL ADVANTAGE, OR PRIVATE FINANCIAL GAIN.— Any person who knowingly uses an access device, as defined in section 1029(e)(1) of title 18, United States Code, issued to another person or obtained by fraud or false statement to access Department information technology systems for purposes of obtaining commercial advantage or private financial gain, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State, shall be fined not more than $20,000, imprisoned for not more than 5 years, or both.".

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

(c) EFFECTIVE DATE OF PENALTIES.—Notwithstanding section 6, the penalties described in section 490(e) of the Higher Education Act of 1965 (20 U.S.C.

1 1097), as added by subsection (a), shall take effect the
2 day after the date on which the Secretary issues guidance
3 regarding the use of access devices, as described in sub-
4 section (b).

SEC. 3. LOAN COUNSELING.

6 Section 485(b) of the Higher Education Act of 1965
7 (20 U.S.C. 1092(b)) is amended—

8 (1) in clause (viii), by striking ''and'' after the
9 semicolon; and

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

11 ''(x) an explanation that—

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

16 ''(II) the borrower should use
17 caution when dealing with those com-
18 panies; and

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

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

2 Section 485B of the Higher Education Act of 1965

3 (20 U.S.C. 1092b) is amended—

4 (1) by redesignating subsections (e) through (h)

5 as subsections (f) through (i), respectively;

6 (2) in subsection (d)—

7 (A) in paragraph (5)(C), by striking "and"

8 after the semicolon;

9 (B) in paragraph (6)(C), by striking the

10 period at the end and inserting "; and"; and

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

12 "(7) preventing access to the data system and

13 any other system used to administer a program

14 under this title by any person or entity for the pur-

15 pose of assisting a student in managing loan repay-

16 ment or applying for any repayment plan, consolida-

17 tion loan, or other benefit authorized by this title,

18 unless such access meets the requirements described

19 in subsection (e).";

20 (3) by inserting after subsection (d) the fol-

21 lowing:

22 "(e) REQUIREMENTS FOR THIRD-PARTY DATA SYS-

23 TEM ACCESS.—

24 "(1) IN GENERAL.—As provided in paragraph

25 (7) of subsection (d), an authorized person or entity

26 described in paragraph (2) may access the data sys-

5

1 tem and any other system used to administer a pro-

2 gram under this title if that access—

3   "(A) is in compliance with terms of service,

4   information security standards, and a code of

5   conduct which shall be established by the Sec-

6   retary and published in the Federal Register;

7   "(B) is obtained using an access device (as

8   defined in section 1029(e)(1) of title 18, United

9   States Code) issued by the Secretary to the au-

10   thorized person or entity; and

11   "(C) is obtained without using any access

12   device (as defined in section 1029(e)(1) of title

13   18, United States Code) issued by the Secretary

14   to a student, borrower, or parent.

15 "(2) AUTHORIZED PERSON OR ENTITY.—An

16 authorized person or entity described in this para-

17 graph means—

18   "(A) a guaranty agency, eligible lender, or

19   eligible institution, or a third-party organization

20   acting on behalf of a guaranty agency, eligible

21   lender, or eligible institution, that is in compli-

22   ance with applicable Federal law (including reg-

23   ulations and guidance); or

24   "(B) a licensed attorney representing a

25   student, borrower, or parent, or another indi-

1   vidual who works for a Federal, State, local, or
2   Tribal government or agency, or for a nonprofit
3   organization, providing financial or student loan
4   repayment counseling to a student, borrower, or
5   parent, if—

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

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

17   "(iii) system access is provided only
18   through a separate point of entry; and

19   "(iv) the attorney or other individual
20   has consent from the relevant student, bor-
21   rower, or parent to access the system.";
22   and

23   (4) in subsection (f)(1), as redesignated by
24   paragraph (1)—

1   (A) in subparagraph (A), by striking "stu-

2   dent and parent" and inserting "student, bor-

3   rower, and parent";

4   (B) by redesignating subparagraphs (C)

5   and (D) as subparagraphs (D) and (E), respec-

6   tively;

7   (C) by inserting after subparagraph (B)

8   the following:

9   "(C) the reduction in improper data sys-

10   tem access as described in subsection (d)(7);";

11   and

12   (D) by striking subparagraph (E), as re-

13   designated by subparagraph (B), and inserting

14   the following:

15   "(E) any protocols, codes of conduct,

16   terms of service, or information security stand-

17   ards developed under paragraphs (6) or (7) of

18   subsection (d) during the preceding fiscal

19   year.".

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

21   Section 141(b)(2) of the Higher Education Act of

22 1965 (20 U.S.C. 1018(b)(2)) is amended by adding at the

23 end the following:

1 "(C) Taking action to prevent and address

2 the improper use of access devices, as described

3 in section 485B(d)(7), including by—

4 "(i) detecting common patterns of im-

5 proper use of any system that processes

6 payments on Federal Direct Loans or

7 other Department information technology

8 systems;

9 "(ii) maintaining a reporting system

10 for contractors involved in the processing

11 of payments on Federal Direct Loans in

12 order to allow those contractors to alert

13 the Secretary of potentially improper use

14 of Department information technology sys-

15 tems;

16 "(iii) proactively contacting Federal

17 student loan borrowers whose Federal stu-

18 dent loan accounts demonstrate a likeli-

19 hood of improper use in order to warn

20 those borrowers of suspicious activity or

21 potential fraud regarding their Federal

22 student loan accounts; and

23 "(iv) providing clear and simple dis-

24 closures in communications with borrowers

25 who are applying for or requesting assist-

1 ance with Federal Direct Loan programs
2 (including assistance or applications re-
3 garding income-driven repayment, forbear-
4 ance, deferment, consolidation, rehabilita-
5 tion, cancellation, and forgiveness) to en-
6 sure that borrowers are aware that the De-
7 partment will never require borrowers to
8 pay for such assistance or applications.''.

SEC. 6. EFFECTIVE DATE.

10 This Act, and the amendments made by this Act,
11 shall take effect on the date that is 180 days after the
12 date of enactment of this Act.

Passed the Senate December 1, 2020.

Attest:

Secretary.

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