

Calendar No. 357

106TH CONGRESS
1ST SESSION

S. 1455

A BILL

To enhance protections against fraud in the offering of financial assistance for college education, and for other purposes.

OCTOBER 29, 1999

Reported with an amendment

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To enhance protections against fraud in the offering of financial assistance for college education, and for other purposes.

 IN THE SENATE OF THE UNITED STATES

JULY 28, 1999

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 29, 1999

Reported by Mr. ABRAHAM, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To enhance protections against fraud in the offering of financial assistance for college education, 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.**

4 This Act may be cited as the “College Scholarship
5 ~~Fraud Prevention Act of 1999~~”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) A substantial amount of fraud occurs in the
4 offering of college education financial assistance
5 services to consumers.

6 (2) Such fraud includes the following:

7 (A) Misrepresentations regarding the pro-
8 vision of sources from which consumers may ob-
9 tain financial assistance (including scholarships,
10 grants, loans, tuition, awards, and other assist-
11 ance) for purposes of financing a college edu-
12 cation.

13 (B) Misrepresentations regarding the pro-
14 vision of portfolios of such assistance tailored to
15 the needs of specific consumers.

16 (C) Misrepresentations regarding the pre-
17 selection of students as eligible to receive such
18 assistance.

19 (D) Misrepresentations that such assist-
20 ance will be provided to consumers who pur-
21 chase specified services from specified entities.

22 (E) Misrepresentations regarding the busi-
23 ness relationships between particular entities
24 and entities that award or may award such as-
25 sistance.

1 (F) Misrepresentations regarding refunds
 2 of processing fees if consumers are not provided
 3 specified amounts of such assistance, and other
 4 misrepresentations regarding refunds.

5 **SEC. 3. ENHANCED CRIMINAL PENALTIES FOR COLLEGE**
 6 **EDUCATION FINANCIAL SERVICE ASSIST-**
 7 **ANCE FRAUD.**

8 (a) ENHANCED PENALTIES.—Chapter 63 of title 18,
 9 United States Code, is amended by adding at the end the
 10 following:

11 **“§ 1348. Enhanced penalties for college education fi-**
 12 **nancial service assistance fraud**

13 “(a) IN GENERAL.—A person who is convicted of an
 14 offense under section 1341, 1342, or 1343 of this title
 15 in connection with the obtaining or providing of any schol-
 16 arship, grant, loan, tuition, discount, award, or other fi-
 17 nancial assistance for purposes of financing an education
 18 at an institution of higher education shall be fined under
 19 this title, imprisoned not more than 10 years, or both.

20 “(b) OTHER PENALTIES.—Any penalties imposed
 21 under this section shall be in addition to any penalties
 22 under any of the sections referred to in subsection (a).

23 “(c) INSTITUTION OF HIGHER EDUCATION DE-
 24 FINED.—In this section, the term ‘institution of higher

1 education' has the meaning given that term in section 101
2 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of that chapter is amended by adding
5 at the end the following:

“1348. Enhanced penalties for college education financial service assistance
fraud.”.

6 **SEC. 4. EXCLUSION OF DEBTS RELATING TO COLLEGE FI-**
7 **NANCIAL ASSISTANCE SERVICES FRAUD**
8 **FROM PERMISSIBLE EXEMPTIONS OF PROP-**
9 **ERTY FROM ESTATES IN BANKRUPTCY.**

10 Section 522(e) of title 11, United States Code, is
11 amended—

12 (1) by striking “or” at the end of paragraph
13 (2);

14 (2) by striking the period at the end of para-
15 graph (3) and inserting “; or”; and

16 (3) by adding at the end the following:

17 “(4) a debt in connection with fraud in the ob-
18 taining or providing of any scholarship, grant, loan,
19 tuition, discount, award, or other financial assist-
20 ance for purposes of financing an education at an
21 institution of higher education (as that term is de-
22 fined in section 101 of the Higher Education Act of
23 1954 (20 U.S.C. 1001)).”.

1 **SEC. 5. LIST OF BUSINESSES AND ORGANIZATIONS OFFER-**
2 **ING COLLEGE EDUCATION FINANCIAL AS-**
3 **SISTANCE SERVICES.**

4 (a) **LIST.**—The Secretary of Education shall main-
5 tain on the Internet web site of the Department of Edu-
6 cation a web page that—

7 (1) lists businesses and organizations that offer
8 financial assistance (including scholarships, grants,
9 loans, tuition, awards, and other assistance) for pur-
10 poses of financing an education at institutions of
11 higher education; and

12 (2) provides the Internet web site address of
13 such businesses and organizations.

14 (b) **APPLICATION FOR PLACEMENT ON THE LIST.**—
15 A business or organization may apply to the Secretary of
16 Education for placement on the list.

17 (c) **CONSULTATION.**—The Secretary of Education
18 shall consult with the Chairman of the Federal Trade
19 Commission in an effort to ensure that a business or orga-
20 nization applying for placement on the list is a legitimate
21 business or organization.

22 (d) **INELIGIBILITY.**—A business or organization shall
23 not be listed on the page if—

24 (1) the business or organization was prosecuted
25 by the Federal Trade Commission and convicted of
26 using an unfair or deceptive act or practice under

1 the Federal Trade Commission Act (15 U.S.C. 41 et
 2 seq.) during the 5-year period preceding the submis-
 3 sion of an application under subsection (b);

4 (2) the business or organization is operated by
 5 an individual who operated a business or organiza-
 6 tion that was prosecuted by the Federal Trade Com-
 7 mission and convicted of using an unfair or decep-
 8 tive act or practice under such Act during the 5-year
 9 period preceding the submission of an application
 10 under subsection (b);

11 (3) the Department of Education receives a sig-
 12 nificant number of complaints, as determined by the
 13 Secretary of Education, from students alleging the
 14 business or organization has not in good faith deliv-
 15 ered on promises made by the business or organiza-
 16 tion; or

17 (4) the business or organization is under inves-
 18 tigation by the Federal Trade Commission.

19 **SECTION 1. SHORT TITLE.**

20 *This Act may be cited as the “College Scholarship*
 21 *Fraud Prevention Act of 1999”.*

22 **SEC. 2. FINDINGS.**

23 *Congress makes the following findings:*

1 (1) *A substantial amount of fraud occurs in the*
2 *offering of college education financial assistance serv-*
3 *ices to consumers.*

4 (2) *Such fraud includes the following:*

5 (A) *Misrepresentations regarding the provi-*
6 *sion of sources from which consumers may ob-*
7 *tain financial assistance (including scholarships,*
8 *grants, loans, tuition, awards, and other assist-*
9 *ance) for purposes of financing a college edu-*
10 *cation.*

11 (B) *Misrepresentations regarding the provi-*
12 *sion of portfolios of such assistance tailored to*
13 *the needs of specific consumers.*

14 (C) *Misrepresentations regarding the pre-se-*
15 *lection of students as eligible to receive such as-*
16 *sistance.*

17 (D) *Misrepresentations that such assistance*
18 *will be provided to consumers who purchase spec-*
19 *ified services from specified entities.*

20 (E) *Misrepresentations regarding the busi-*
21 *ness relationships between particular entities*
22 *and entities that award or may award such as-*
23 *sistance.*

24 (F) *Misrepresentations regarding refunds of*
25 *processing fees if consumers are not provided*

1 *specified amounts of such assistance, and other*
2 *misrepresentations regarding refunds.*

3 (3) *In 1996, the Federal Trade Commission*
4 *launched “Project Scholarscam”, a joint law enforce-*
5 *ment and consumer education campaign directed at*
6 *fraudulent purveyors of so-called “scholarship serv-*
7 *ices”.*

8 (4) *Despite the efforts of the Federal Trade Com-*
9 *mission, colleges and universities, and nongovern-*
10 *mental organizations, the continued lack of awareness*
11 *about scholarship fraud permits a significant amount*
12 *of fraudulent activity to occur.*

13 **SEC. 3. SENTENCING ENHANCEMENT FOR HIGHER EDU-**
14 **CATION FINANCIAL ASSISTANCE FRAUD.**

15 *Pursuant to its authority under section 994(p) of title*
16 *28, United States Code, the United States Sentencing Com-*
17 *mission shall amend the Federal sentencing guidelines in*
18 *order to provide for enhanced penalties for any offense in-*
19 *volving fraud or misrepresentation in connection with the*
20 *obtaining or providing of, or the furnishing of information*
21 *to a consumer on, any scholarship, grant, loan, tuition, dis-*
22 *count, award, or other financial assistance for purposes of*
23 *financing an education at an institution of higher edu-*
24 *cation, such that those penalties are comparable to the base*
25 *offense level for misrepresentation that the defendant was*

1 *acting on behalf of a charitable, educational, religious, or*
 2 *political organization, or a government agency.*

3 **SEC. 4. EXCLUSION OF DEBTS RELATING TO COLLEGE FI-**
 4 **NANCIAL ASSISTANCE SERVICES FRAUD**
 5 **FROM PERMISSIBLE EXEMPTIONS OF PROP-**
 6 **ERTY FROM ESTATES IN BANKRUPTCY.**

7 *Section 522(c) of title 11, United States Code, is*
 8 *amended—*

9 *(1) by striking “or” at the end of paragraph (2);*

10 *(2) by striking the period at the end of para-*
 11 *graph (3) and inserting “; or”; and*

12 *(3) by adding at the end the following:*

13 *“(4) a debt in connection with fraud in the ob-*
 14 *taining or providing of any scholarship, grant, loan,*
 15 *tuition, discount, award, or other financial assistance*
 16 *for purposes of financing an education at an institu-*
 17 *tion of higher education (as that term is defined in*
 18 *section 101 of the Higher Education Act of 1954 (20*
 19 *U.S.C. 1001)).”.*

20 **SEC. 5. SCHOLARSHIP FRAUD ASSESSMENT AND AWARE-**
 21 **NESS ACTIVITIES.**

22 *(a) ANNUAL REPORT ON SCHOLARSHIP FRAUD.—*

23 *(1) REQUIREMENT.—The Attorney General and*
 24 *the Secretary of Education, in conjunction with the*
 25 *Federal Trade Commission, shall jointly submit to*

1 *Congress each year a report on fraud in the offering*
2 *of financial assistance for purposes of financing an*
3 *education at an institution of higher education. Each*
4 *report shall contain an assessment of the nature and*
5 *quantity of incidents of such fraud during the one-*
6 *year period ending on the date of such report.*

7 (2) *INITIAL REPORT.—The first report under*
8 *paragraph (1) shall be submitted not later than 18*
9 *months after the date of the enactment of this Act.*

10 (b) *NATIONAL AWARENESS ACTIVITIES.—The Sec-*
11 *retary of Education shall, in conjunction with the Federal*
12 *Trade Commission, maintain a scholarship fraud aware-*
13 *ness site on the Internet web site of the Department of Edu-*
14 *cation. The scholarship fraud awareness site may include*
15 *the following:*

16 (1) *Appropriate materials from the Project*
17 *Scholarscam awareness campaign of the Commission,*
18 *including examples of common fraudulent schemes.*

19 (2) *A list of companies and individuals who*
20 *have been convicted of scholarship fraud in Federal or*
21 *State court.*

22 (3) *An Internet-based message board to provide*
23 *a forum for public complaints and experiences with*
24 *scholarship fraud.*

1 (4) *An electronic comment form for individuals*
2 *who have experienced scholarship fraud or have ques-*
3 *tions about scholarship fraud, with appropriate mech-*
4 *anisms for the transfer of comments received through*
5 *such forms to the Department and the Commission.*

6 (5) *Internet links to other sources of information*
7 *on scholarship fraud, including Internet web sites of*
8 *appropriate nongovernmental organizations, colleges*
9 *and universities, and government agencies.*

10 (6) *An Internet link to the Better Business Bu-*
11 *reau in order to assist individuals in assessing the*
12 *business practices of other persons and entities.*

13 (7) *Information on means of communicating*
14 *with the Federal Student Aid Information Center, in-*
15 *cluding telephone and Internet contact information.*