

## Why Massachusetts Needs its Own Student Loan Bill of Rights

### Executive Summary:

- *An alarming trend has emerged in which the federal government **is systematically failing at overseeing student loan servicing agencies and protecting student loan borrowers.***
- *Reports show that since President Trump's appointees assumed control of the CFPB, the agency has not taken a single substantive action to stand up for student loan borrowers.*
- *The Trump/DeVos administration has signalled repeatedly that they will turn **a blind eye to student loan servicers' increasingly deceptive, predatory, and illegal practices.***
- *Meanwhile, there is mounting evidence of too many instances where servicers routinely fail to advise borrowers about the right repayment plans, leaving them saddled to pay more debt than necessary.*
- *According to the Federal Student Aid Office's own reporting, **92 percent** of the complaint calls it received included at least one instance of a loan servicer failing to inform a borrower about all available repayment options. **Sixty-one percent** of the oversight reports included examples of loan servicers not following agency guidelines or adhering the law.*
- *In the face of federal refusal to regulate the loan servicing industry, **states have no choice but to enact their own Student Loan Bills of Rights** to protect their student loan borrowers from profit-seeking predatory actors.*
- *Ten states have already done so, with **New York, Maine, Maryland, Colorado, and Nevada** joining them in 2019. Other states, such as **California, New Jersey, and Rhode Island**, are steps away from passing their own Student Loan Bill of Rights.*
- ***It's now time for Massachusetts to protect its student loan borrowers!***
- ***Senator Eric Lesser and Representative Natalie Higgins are leading an effort as such with "An Act establishing a student loan bill of rights" (S.160, H998).** The bill has gathered significant support by legislators and is backed by a coalition of organizations, including The Student Borrower Protection Center (SBPC), The Public Higher Education Network Of Massachusetts, MASSPIRG, The Institute of Student Loan Advisors, and Hildreth Institute.*

## Full Report:

Student loan borrowers have significant difficulty paying off their student debt. While their debt burden has been growing steadily with increasing college costs, the agencies servicing the loans have been, at best, incompetent and predatory at worst, knowingly misleading borrowers to increase their profits.

Student loan servicers are privately contracted by the federal government to service student loan borrowers, advise on repayment plan options, and collect payments. However, as Navient, one of the largest servicing agencies, openly admitted it in a lawsuit, [they feel no obligation to act in the interest of the consumer](#). But worse, they have been found to be systematically cheating borrowers by not fully informing them about the most suitable repayment plans. Instead, companies such as Navient have misguided borrowers into programs that benefited their company. For instance, putting borrowers into forbearance is not only more lucrative for servicing agencies, it is also considerably simpler than the paperwork required for an income-based plan. The Consumer Financial Protection Bureau (CFPB) found that by putting 1.5 million borrowers in consecutive forbearances, Navient [added \\$4 billion to outstanding student loan debt](#).

In 2015, Obama sought to increase oversight of the servicer industry by issuing [a series of directives](#) geared toward improving customer services, enhancing consumer protection, and increasing servicers' accountability by introducing performance-based contracts. Agencies were incentivized to provide effective counselling and customer services and to advise borrowers on plans to avoid default, with the promise that they would be allocated more loans to service.

Working closely with the CFPB, the Obama administration also established clear rules and guidelines for loan servicers about the procedures to follow when advising borrowers about their loans. Meanwhile, Congress mandated the creation of a student loan ombudsman position under the CFPB, who would be responsible for mediating and resolving disagreements between borrowers and servicers, and keeping a database of all student loan complaints to be analyzed and published yearly in a written report.

One of the first decisions Betsy DeVos made as Secretary of Education was to repeal Obama's directives. She also ordered the CFPB [to back off on overseeing](#) the loan servicing industry. These pressures led to the resignation of the [agency's director Richard Cordray](#), who was replaced by Trump's Office of Management and Budget Director, Mick Mulvaney, as well as the resignation of the agency's [Student Loan](#)

[Watchdog, Seth Frotman](#), whose position has been left vacant for more than six months now. Seth Frotman went on to establish his own not-for-profit organization, the Student Borrower Protection Center (SBPC), where he continues the fight for student loan borrowers and their rights for basic consumer protections. An SBPC [report](#) highlights that since President Trump's appointees assumed control of the CFPB, the agency has not taken a **single substantive action** to stand up for student loan borrowers.

Meanwhile, a [new report](#) by the Education Department's Inspector General (IG) shows an alarming picture of the government systematically failing to oversee its student loan servicing agencies. According to the Federal Student Aid (FSA) Office's own reporting, **92 percent** of the monitored calls had at least one instance of a servicer failing to inform a borrower about all available repayment options and **61 percent** of the oversight reports included examples of loan servicers not following guidelines or the law. The report highlights that the FSA was aware of these malpractices, but [did not make use of the clauses embedded in servicers' contracts](#) which allow for a variety of punitive actions, such as recovering money from the servicers for borrowers who have been serviced incorrectly. This inevitably further emboldened loan servicers to pursue whichever practices were most profitable for them.

The Trump/Betsy DeVos administration is also aware of the systemic abuses, but has been unwilling to address the issue. In fact, they have fiercely defended the servicers, making it clear that they are not in favor of regulation. More importantly, they are [also standing in the way of many states](#) seeking to create their own consumer protection standards, rules, and guidelines to oversee loan servicers. But states are [not ready to back down!](#) Ten states have already enacted their own Bill of Rights, and 13 have drafted proposed legislations in 2019. California, New Jersey, and Rhode Island, are steps away from passing their own Student Loan Bill of Rights.

In Massachusetts, Senator Eric Lesser and Representative Natalie Higgins, have been leading efforts to protect our Commonwealth's borrowers. They have filed "An Act establishing a student loan bill of rights" ([S.160,H.998](#)) which has gathered significant support by legislators. Additionally, Representative Muradian has filed "An Act establishing a student loan bill of rights" ([H.1069](#)).

Lesser and Higgins' bill would give Massachusetts its own Student Loan Ombudsman within the Attorney General's Office, who would provide assistance to student loan borrowers in exploring repayment options, applying to income-driven plans, avoiding or getting out of default, ending wage garnishments, and tax refund interceptions or benefits offsets. In addition, it would also resolve disputes with loan servicers, stop

harassing collection calls, and streamline applications for loan discharges. While leading efforts to address complaints, the Ombudsman would compile them to report them to the state's Division of Banks, which would maintain a consumer assistance unit.

The bill would also allow state regulation to be put in place so that student loan servicers would be required to obtain licensure from the state's Division of Banks. The Commissioner of Banks would be empowered to revoke a loan service company's license if the business was found to be engaging in abusive practices such as overcharging students or steering them into costlier repayment plans.

Our own Student Loan Bill of Rights would ensure that every Massachusetts borrower receives robust consumer protection and effective assistance, creating adequate oversight to ensure that the student loan industry is helping borrowers, not its own profit margins.

### Tracking States' Progress in Passing Their Student Loan Bill of Rights:

State	Status	Student Loan Borrowers Rights, Student Loan Bill of Rights, Student Loan Ombudsman, Regulating Student Loan Servicers
Alabama	N/A	N/A
Alaska	N/A	N/A
Arizona	Proposed	<b>Student Loan Ombudsman and Loan Servicers Act (HB2511, 2019):</b> Amendment to establish a student loan ombudsman to receive, review, and attempt to resolve complaints from student loan borrowers, to require student loan servicers to obtain a license, and to establish requirements and prohibitions on their practices. The State would also have the right to run investigation and examinations.
Arkansas	N/A	N/A
California	Enacted (not full SLBR yet)	<b>Student Loan Servicing Act (AB2251, 2016, revised 2018):</b> Act requiring businesses engaged in servicing student loans in California to be subject to licensing requirements and revises necessary qualifications. The law also allows applications to be completed through the Nationwide Multistate Licensing System & Registry, providing consistency across all servicers.
California	Proposed	<b>Student Loan Servicing Amendment (AB376, 2019):</b> Amendment to the Student Loan Servicing Act of 2016. Establishes a student-loan ombudsman; bans abusive or deceptive practices in student-loan servicing; puts new requirements on how student-loan companies process student-loan payments; requires student-loan companies to turn over data on their activities to the state's Department of Business Oversight, which the agency could then use to publish information on how well the companies are serving borrowers; and gives borrowers the power to sue their student loan companies if they believe they've been wronged.

<b>Colorado</b>	Enacted	<b>Colorado Student Loan Servicers Act (SB19-002, 2019):</b> Act that requires servicers of education loans owed by Colorado residents to be licensed by Colorado's Uniform Consumer Credit Code (UCCC) Administrator; prohibits servicers from "defrauding or misleading borrowers, omitting material information, misapplying student loan payments, providing inaccurate information to a credit bureau, or failing to evaluate a borrower for an income-based repayment program where available;" establishes a Student Loan Ombudsperson to assist borrowers by responding to complaints, analyzing data, and creating education materials/courses; requires servicers to keep records of each student loan transaction and grants Colorado's UCCC administrator authority to conduct investigations; and makes any violation of the law a deceptive trade practice.
<b>Connecticut</b>	Enacted	<b>Student Loan Bill of Rights (HB6915, 2015):</b> Act to establish a student loan ombudsman in the Connecticut Department of Banking to review, attempt to resolve, and report on student loan complaints. The new ombudsman is also charged with disseminating information to policymakers and the public about problems being realized with student lending and developing a comprehensive "student loan borrower education course." Institutes licensing requirements for student loan servicers, along with a prohibition on misleading or defrauding borrowers. (First state to pass a borrower's bill of rights.)
<b>Delaware</b>	N/A	N/A
<b>Florida</b>	N/A	N/A
<b>Georgia</b>	N/A	N/A
<b>Hawaii</b>	N/A	N/A
<b>Idaho</b>	N/A	N/A
<b>Illinois</b>	Enacted	<b>Student Loan Servicing Rights Act (110 ILCS 992, 2018).</b> Law to create a Student Loan Ombudsman in the Attorney General's Office and to require student loan servicers to obtain a license to operate in the state. Protections for student loan borrowers include that loan servicers are prohibited from making misleading statements and required to properly process payments. Specialists are made available to explain to struggling borrowers all of their repayment options, starting with income-driven plans, and to inform borrowers that they may be eligible to have their loans forgiven due to a disability or a problem with the school they attended.
<b>Indiana</b>	N/A	N/A
<b>Iowa</b>	Proposed	<b>Student Loan Ombudsman Act (SF539, 2019):</b> Act establishing the office of student loan ombudsman within the college student aid commission.
<b>Kansas</b>	N/A	N/A
<b>Kentucky</b>	N/A	N/A
<b>Louisiana</b>	N/A	N/A
<b>Maine</b>	Enacted	<b>An Act To Establish a Student Loan Bill of Rights (SP 285/LD995, 2019):</b> Bill that creates a student loan ombudsman with responsibilities that include reviewing and possibly resolving complaints from borrowers, and compiling and analyzing borrower data and help borrowers understand rights and responsibilities. Also requires servicers who do business in Maine to obtain a license and undergo an investigation, and automatically licenses student loan servicers under contract with

		the U.S. Department of Education.
<b>Maryland</b>	Enacted	<b>Financial Consumer Protection Act (HB 594, 2019):</b> Act that prohibits student loan servicers from engaging in unfair, deceptive, abusive trace practices, or knowingly misapplying or refusing to correct a misapplication of payments etc., requires student loan servicers to respond to inquiries and complaints within 30 days of receipt, and grants enforcement authority to the Office of the Commissioner of Financial Regulation.
<b>Massachusetts</b>	Proposed	<b>An Act Establishing a Student Loan Bill of Rights (HD.857/SD.1009, 2019):</b> Establishes a bill of rights for student loan borrowers in Massachusetts, licenses student loan servicers that operate in Massachusetts, and with those fees, creates an office of the student loan ombudsman, to better educate and support student loan borrowers across the Commonwealth.
<b>Michigan</b>	N/A	N.A
<b>Minnesota</b>	Proposed	<b>Student Loan Advocate Act (H. F. 1424, 2019)</b> An act establishing a student loan ombudsperson; requiring licensure of student loan servicers; prohibiting certain practices in student loan servicing; requiring a report; proposing coding for new law as Minnesota Statutes, chapter 58B.
<b>Mississippi</b>	N/A	N/A
<b>Missouri</b>	Proposed	<b>An Act Relating to Student Loans (H.B. 199, 2019)</b> Act that establishes the "Student Loan Bill of Rights;" requires the Department of Higher Education (DHE) to establish the Office of the Student Loan Ombudsman,; requires any person wanting to be a student loan servicer in Missouri to submit an application to the department for an initial license; authorizes the DHE to investigate and examine the affairs, business, premises, and records of any loan servicer required to have a license.
<b>Montana</b>	N/A	N/A
<b>Nebraska</b>	N/A	N/A
<b>Nevada</b>	Enacted	<b>Student Loan Ombudsman Act (AB 383, 2019):</b> Act providing for the designation of a Student Loan Ombudsman within the Office of the State Treasurer to assist student loan borrowers to understand their rights and responsibilities, and attempt to resolve any complaint from a student loan borrower.
<b>New Hampshire</b>	N/A	N/A
<b>New Jersey</b>	To Be Enacted	<b>Student Loan Ombudsman Act (S1149, 2019):</b> Bill establishing a Student Loan Ombudsman, requiring student loan servicers to apply to a license, and granting the commissioner the authority to conduct certain investigations and examinations.
<b>New Mexico</b>	Proposed	<b>Student Loan Bill of Rights Act (SB 160, 2019):</b> Bill to establish a student loan ombudsman within the division to provide timely assistance to student loan borrowers. Student loan servicer would have to obtain a license before operating within State and they shall maintain adequate records of each student education loan transaction.
<b>New York</b>	Enacted	<b>Transportation, Economic Development and Environmental Conservation Bill, Section L (2019):</b> Bill requiring that companies servicing student loans held by New Yorkers obtain a state license and meet standards consistent with the laws and regulations governing other significant lending products such as mortgages;

		banning upfront fees; requiring fair contracts and clear and conspicuous disclosures to borrowers; and providing penalties for failing to comply with the law.
<b>North Carolina</b>	Proposed	<b>Student Borrower's Bill of Rights Act (H875, 2019):</b> An Act To Enact A Student Borrowers' Bill Of Rights. The bill would protect student loan borrowers and their families (i) by establishing the position of a Student Loan Ombudsman to ensure that student loan borrowers and their families have accurate information about student loans and repayment options and (ii) by providing that the Commissioner of Banks shall license and regulate student loan servicers to ensure that student loan borrowers and their families are treated fairly.
<b>North Dakota</b>	N/A	N/A
<b>Ohio</b>	N/A	N/A
<b>Oklahoma</b>	N/A	N/A
<b>Oregon</b>	Proposed	<b>Student Loan Servicers Bill (HB 2588, 2019):</b> Bill to require the student loan servicers to obtain licenses, regulate the servicers, establish an ombudsman, and give authority and supervisory power to the The Director of the Department of Consumer and Business Services over the licensed loan servicers.
<b>Pennsylvania</b>	Proposed	<b>Student Loan Ombudsman Act (SB 400, 2019):</b> Act providing for student loan debt data collection and report, for a student loan ombudsman, for higher education assistance by employers and for establishing the Student Loan Refinancing Program
<b>Rhode Island</b>	Proposed	<b>Student Loan Bill of Rights (S0737, 2019):</b> Bill establishing licensing requirements for student loan servicers, as well as reporting requirements and responsibilities towards borrowers. The department of the attorney general's consumer protection unit, in collaboration with the director, general treasurer, and commissioner, would provide Borrower assistance, education, and address complaints.
<b>South Carolina</b>	Proposed	<b>Student Loan Bill of Rights (H3197, 2019):</b> Bill requiring the student loan servicers to obtain a license, and establish a student loan ombudsman to receive, review, and attempt to resolve complaints from student loan borrowers.
<b>South Dakota</b>	N/A	N/A
<b>Tennessee</b>	N/A	N/A
<b>Texas</b>	N/A	N/A
<b>The District of Columbia</b>	Enacted	<b>The Student Loan Ombudsman Establishment and Servicing Regulation Amendment Act (21-571, 2016):</b> Act that establishes a student loan ombudsman within the D.C. Department of Insurance, Securities, and Banking with the authority to create rules for student loan servicers; imposes significant restrictions upon servicers, including requirements that servicers be licensed, pay application and annual fees, file a surety bond, and comply with recordkeeping requirements; and purports to dictate further requirements for handling complaints, applying payments, disclosing fees, providing access to default aversion services, and notifying borrowers of payment application methodologies when handling multiple loans.
<b>Utah</b>	N/A	N/A
<b>Vermont</b>	N/A	N/A

<b>Virginia</b>	Proposed 2019	<b>Act for Licensing of Qualified Education Loan Servicers (SB1112, 2019):</b> The bill requires a loan servicer to obtain a license from the State Corporation Commission (SCC) and establishes procedures pertaining to such licenses
<b>Washington</b>	Enacted	<b>Student Loan Bill of Rights (SB6029, 2018)</b> - Law that creates the position of "Advocate" equivalent of an ombudsman within the Washington Student Achievement Council to assist student education loan borrowers with student loans; requires servicers to obtain a license from the DFI; and establishes Servicer Responsibilities. Institutions of higher education are also required to send borrower notices regarding financial aid.
<b>West Virginia</b>	N/A	N/A
<b>Wisconsin</b>	N/A	N/A
<b>Wyoming</b>	N/A	N/A