

Statement of Senator Dick Durbin
Hearing before the House Judiciary Committee Subcommittee on Antitrust, Commercial
and Administrative Law on
“Oversight of Bankruptcy Law and Legislative Proposals”
June 25, 2019

Chairmen Nadler and Cicilline, Ranking Members Collins and Sensenbrenner, and members of the Subcommittee, thank you for holding this hearing. And thank you for inviting me to speak about the need to reform the way student loans are treated by the bankruptcy code.

It’s long past time for Washington to get serious about student debt.

Over 44 million Americans hold more than \$1.5 trillion in student loans. Student loan debt is the second largest type of household debt after mortgages. It is also the fastest growing household debt, increasing by 157 percent since 2007.

The average college student owes about \$30,000 upon graduation. Two-and-a-half million student borrowers owe more than \$100,000.

Student debt is limiting young people’s lives and life choices. Americans are putting off buying a home and starting a family because of this debt.

And it’s not just young people who are affected. In 2017, there were 8.4 million Americans over age 50 who had student loan debt.

Student borrowers try to repay their loans in a timely manner. But many struggle to do so—often because of unforeseen circumstances like medical issues, or perhaps they were misled into attending a for-profit college that did not prepare them for the job market, or the servicer of their loan didn’t provide them with accurate information.

Last year, over 11 percent of student loan debt was in default or seriously delinquent. That’s the highest delinquency rate among types of consumer loans tracked by the New York Fed.

And Federal Reserve Chairman Jerome Powell has said that student debt absolutely could hold back economic growth.

This is a crisis. And it's time to do something about it.

Chairman Nadler, Chairman Cicilline and Representative Katko have introduced the bipartisan Student Borrower Bankruptcy Relief Act, which is before this committee. I am the lead sponsor of this bill in the Senate.

The premise of our bill is simple: it's time to restore the availability of meaningful bankruptcy relief for student loan borrowers.

The bankruptcy process has been around since the founding of our nation. Filing for bankruptcy should be a last resort, but for some Americans it is a necessary one.

It can give people a chance to get back on their feet and on a path to a productive financial future.

Americans can seek a fresh start from most types of debt in bankruptcy. If a person overextends himself on his credit card or goes into debt buying a house, a boat, a car, or luxury items, he can address those debts in bankruptcy.

But the bankruptcy code provides no meaningful relief for student loan debt. Student borrowers who find themselves unable to repay their loans are saddled with this debt for life.

Very few types of debts have been given an exemption from discharge in the bankruptcy code—only things like child support payments, alimony, overdue taxes, and criminal fines.

But in 1998 Congress put federal student loans in this nondischargeable category, and in 2005 it included private student loans as well.

Right now the only way a student borrower can get bankruptcy relief for student loans is if she can demonstrate “undue hardship.” This standard has proven nearly impossible to meet. A *Wall Street Journal* report found only four cases in 2017 where a bankruptcy judge discharged student loan debt for undue hardship.

It didn't used to be this way. Prior to 1976, student loans were fully dischargeable in bankruptcy, and up until 2005 many student loans were still dischargeable with certain conditions.

We've had more than enough time to see how this experiment with student loan nondischargeability works. And it's clear that we need reform.

The American Bankruptcy Institute's blue-ribbon Commission on Consumer Bankruptcy recently issued a report that said, "Student loan debt significantly depresses U.S. economic activity, and current bankruptcy law ineffectively addresses it." I agree.

Our bill would restore dischargeability for private and federal student loans. This bill is supported by many student and consumer groups.

Remember, filing for bankruptcy is not a step that student borrowers would take lightly. It's not a free pass out of debt. It's a painful process.

And because Congress in 2005 created a strict means test for bankruptcy filings, those who have the funds to repay their student loans could not simply liquidate them in bankruptcy under our bill. There are safeguards in the process to prevent abuse.

The bottom line is, we need to give options to student borrowers who have no realistic path to pay back their crushing student debt burden. Bankruptcy should be a meaningful last resort to help them get back on their feet.

I urge this Committee to move forward with student loan bankruptcy reform.