An act to add Title 1.6C.10 (commencing with Section 1788.100) to Part 4 of Division 3 of the Civil Code, and to amend Section 28106 of the Financial Code, relating to student loans.

LEGISLATIVE COUNSEL’S DIGEST

AB 376, as amended, Mark Stone. Student loans—Student loan servicing.

Existing law, the Student Loan Servicing Act, prohibits a person from engaging in the business of servicing a student loan in California without first obtaining a license. Existing law commits the administration of these provisions to the Commissioner of Business Oversight and grants the commissioner various powers in this regard, including the authority to conduct investigations of applicants and licensees.

Existing law, the Rosenthal Fair Debt Collection Practices Act, regulates the collection of consumer debts by debt collectors, as defined. Under existing law, a debt collector who violates the act is liable to a debtor for actual damages resulting from the violation, and is subject to additional civil penalties for any willful or knowing violation of the act, and other specified remedies.

This bill would impose new requirements on persons engaged in student loan servicing in this state. These requirements would include the timely posting, processing, and crediting of student loan payments within certain timeframes, applying overpayments consistent with the best interest of a student loan borrower, applying partial payments to
minimize late fees and negative credit reporting, maintaining accurate records, timely processing of paperwork, and diligently overseeing service providers. The bill would require persons engaged in servicing to provide specialized training for any customer service personnel that advises military borrowers, borrowers in public service, borrowers with disabilities, and older borrowers. The bill would prohibit those persons from engaging in any unfair or deceptive practices, or abusive acts or practices in connection with the servicing of a student loan, as specified. The bill would authorize a consumer who suffers damages as a result of a person’s failure to comply with these provisions to bring an action for actual damages, injunctive relief, restitution, punitive damages, attorney’s fees, and other relief, including treble damages in certain circumstances. The bill would define terms for purposes of its provisions.

The bill would require the commissioner, within 180 days following the operative date of these provisions, to designate a Student Borrower Advocate within the department to provide timely assistance to student loan borrowers, and to hire additional staff, as needed to implement these provisions. The bill would require the Student Borrower Advocate to receive and review complaints, to refer complaints to an appropriate unit within the department that would be authorized to investigate the complaint, and to refer complaints regarding servicers not subject to licensing under the Student Loan Servicing Act to the Department of Justice, which would be permitted to investigate those complaints. The bill would require complaints regarding any private postsecondary educational institution licensed by the Bureau for Private Postsecondary Education to be referred to the Bureau for Private Postsecondary Education’s Office of Student Assistance and Relief. The bill would require the Student Borrower Advocate to confer with the Department of Business Oversight, the Department of Justice, and the Office of Student Assistance and Relief regarding the student loan servicing complaints, the proper referral processes for those complaints and the reporting requirements imposed by the bill. The bill would require the Student Borrower Advocate, not later than 18 months after the operative date of the bill, and no less than once yearly thereafter, to submit a report to the appropriate committees of the Legislature regarding the implementation of these provisions, the effectiveness of the Student Borrower Advocate, the types of complaints received, and other data and analysis on student loan issues.
The bill would also require the Department of Business Oversight to monitor for risks to consumers in the provision of student loan servicing, and would authorize the commissioner to gather information regarding the organization, business conduct, and activities of persons engaged in student loan servicing. The bill would require the commissioner, not later than 180 days following operative date of the act, and thereafter pursuant to certain timeframes, to gather and compile information from persons engaged in student loan servicing and to develop and publicize metrics based on the data collected. Among other actions, the bill would authorize the commissioner to require persons engaged in student loan servicing to file, under oath or otherwise, annual or special reports or answers in writing to specific questions. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would include related legislative findings.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would state the intent of the Legislature to enact legislation to amend the Student Loan Servicing Act to better protect student loan borrowers in California.


The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) California faces a student debt crisis. Across California, more than 3.7 million borrowers owe nearly $125 billion in student debt—more than $33,000 on average. In 2017 alone, more than one million Americans defaulted on a student loan nationwide—three times the number who lost homes to foreclosure over this period.

(2) For these borrowers, and the countless others who are making their payments but barely getting by, these financial issues affect every aspect of their lives. From buying a home to choosing
a career, from starting a family to saving for retirement, student
debt casts a shadow that many Californians cannot escape.

(3) Research shows that the ripple effects of student debt are
substantial. California is just beginning to see how this debt fuels
economic, gender, and racial inequality, inhibits asset
accumulation, accelerates wealth gaps, and carves out a
generational divide that will take decades to erase.

(4) To add insult to injury, the $1.5 trillion student loan market
is plagued with predatory practices. The Consumer Financial
Protection Bureau has continued to find that student loan
borrowers encounter servicers that discourage borrower-friendly
alternative payment plans, fail to respond to questions and payment
processing errors, and fail to provide sufficient information to
borrowers regarding payments, benefits, interest rates, and other
charges.

(5) Between 2017 and 2019, the California Attorney General
and attorneys general in Washington, Illinois, Massachusetts, New
York, Pennsylvania, and Mississippi filed lawsuits or took
enforcement actions against student loan servicers—the
private-sector companies that handle loan payments and manage
borrowers’ accounts. The targets of these enforcement actions
collectively handle one-half of all student debt in the United States.

(6) The federal government has failed to take necessary action
to halt widespread abuses. In February 2019, the United States
Department of Education’s Office of Inspector General reported
improper practices at each of the largest student loan servicers
and criticized the Department of Education for failing to provide
adequate oversight. In 2018, the Trump Administration’s Treasury
Department criticized the Department of Education, explaining
that “[f]ederal student loan servicing currently lacks effective
minimum servicing standards.”

(7) The State of California has an opportunity and an obligation
to act. In 2016, California passed the Student Loan Servicing Act,
requiring all student loan servicers to obtain licenses to operate
in California and to be subject to routine oversight by the
Department of Business Oversight. This is a critical first step to
protect California student loan borrowers’ rights.

(8) With the increasingly uncertain federal landscape, it is now
more important than ever to ensure that California student loan
borrowers will be given meaningful access to federal affordable
repayment options and loan forgiveness benefits, reliable
information, and quality customer service and fair treatment.
(b) Therefore, it is the intent of the Legislature to do all of the
following:
(1) Promote meaningful access to affordable repayment and
loan forgiveness benefits for student loan borrowers in California.
(2) Ensure California borrowers can rely on information about
student loans and loan repayment options provided by student
loan servicers.
(3) Build upon the Student Loan Servicing Act to set effective
minimum student loan servicing standards and to ensure that
California borrowers are protected from predatory student loan
industry practices.
(4) Promote the public interest in furtherance of the state’s
historic police powers to protect the health, welfare, and safety of
the state and, in furtherance of the public interest, the act should
be liberally construed to effectuate that intent.
SEC. 2. Title 1.6C.10 (commencing with Section 1788.100) is
added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6C.10. STUDENT LOANS: BORROWER RIGHTS

CHAPTER 1. STUDENT BORROWER BILL OF RIGHTS

1788.100. For purposes of this title, the following definitions
apply:
(a) “Borrower” means either of the following:
(1) A person who has received or agreed to pay a student loan.
(2) A person who shares responsibility for repaying a student
loan with a person described in paragraph (1).
(b) “Commissioner” means the Commissioner of Business
Oversight.
(c) “Department” means the Department of Business Oversight.
(d) “Engage in the business” means, without limitation,
servicing student loans.
(e) “In this state” means any activity of a person relating to
servicing student loans that originates from this state and is
directed to persons outside this state, or that originates from
outside this state and is directed to persons inside this state, or
that originates inside this state and is directed to persons inside this state.

(f) “Licensee” means a person licensed pursuant to the Student Loan Servicing Act (Division 12.5 (commencing with Section 28100) of the Financial Code).

(g) “Person” means an individual, a corporation, a partnership, a limited liability company, an association, a trust, an unincorporated organization, a government, or a political subdivision of a government, and any other entity.

(h) “Qualified request” means any inbound inquiry or complaint submitted to the person engaged in servicing student loans in the state that cannot be completed in a single phone call.

(i) “Qualified written request” means a written correspondence made by a borrower, other than notice on a payment medium supplied by a licensee, that is transmitted by mail, facsimile, or electronically through an email address or internet website designated by the licensee to receive communications from a borrower that does all of the following:

(1) Enables the licensee to identify the name and account of the borrower.

(2) Includes a statement of the reasons for the belief by the borrower, to the extent applicable, that the account is in error or that provides sufficient detail to the servicer regarding information sought by the borrower, such as requesting a complete payment history for the loan or the borrower’s account, a copy of the borrower’s student loan promissory note, or the contact information for the creditor to whom the borrower’s student loan is owed.

(j) “Servicing” means any of the following activities related to a student loan of a borrower:

(1) Performing both of the following:

(A) Receiving any scheduled periodic payments from a borrower or any notification that a borrower made a scheduled periodic payment.

(B) Applying payments to the borrower’s account pursuant to the terms of the student loan or the contract governing the servicing.

(2) During a period when no payment is required on a student loan, performing both of the following:

(A) Maintaining account records for the student loan.
(B) Communicating with the borrower regarding the student loan on behalf of the owner of the student loan promissory note.

(3) Interacting with a borrower related to that borrower’s student loan, with the goal of helping the borrower avoid default on their student loan or facilitating the activities described in paragraph (1) or (2).

(k) (1) “Student loan” means any loan made solely for use to finance a postsecondary education and costs of attendance at a postsecondary institution, including, but not limited to, tuition, fees, books and supplies, room and board, transportation, and miscellaneous personal expenses. A “student loan” includes a loan made to refinance a student loan.

(2) (A) A “student loan” shall not include an extension of credit under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

(B) A “student loan” shall not include an extension of credit made by a postsecondary educational institution to a borrower if one of the following applies:

(i) The term of the extension of credit is no longer than the borrower’s education program.

(ii) The remaining, unpaid principal balance of the extension of credit is less than one thousand five hundred dollars ($1,500) at the time of the borrower’s graduation or completion of the program.

(iii) The borrower fails to graduate or successfully complete their education program and has a balance due at the time of their disenrollment from the postsecondary institution.

(l) “Student loan servicer” means any person engaged in the business of servicing student loans. A “student loan servicer” does not include a debt collector, as defined in subdivision (c) of Section 1788.2 of the Civil Code, whose student loan debt collection business, and business operations, involve collecting, or attempting to collect, on defaulted student loans, that is, federal student loans for which no payment has been received for 270 days or more, or private student loans, in default, according to the terms of the loan documents. Debt collectors who also service nondefaulted student loans as part of their business and business operations are “student loan servicers.”
1788.101. (a) A person shall not engage in abusive acts or practices when servicing a student loan in this state.

(b) An act or practice is abusive in connection with the servicing of a student loan, if the act or practice does either of the following:

(1) Materially interferes with the ability of a borrower to understand a term or condition of a student loan.

(2) Takes unreasonable advantage of any of the following:

(A) A lack of understanding on the part of the borrower of the material risks, costs, or conditions of the student loan.

(B) The inability of the borrower to protect the interests of the borrower in selecting or using either of the following:

(i) A student loan.

(ii) A feature, term, or condition of a student loan.

(C) The reasonable reliance by the borrower on a person engaged in servicing a student loan to act in the interests of the borrower.

(c) Abusive acts and practices include, but are not limited to, those described in subdivision (b).

Chapter 2. Setting Clear “Rules of the Road” for the Student Loan Industry

1788.102. Except to the extent that this section is inconsistent with any provision of federal law or regulation, and then only to the extent of the inconsistency, a person engaged in student loan servicing in this state shall do all of the following:

(a) Post, process, and credit student loan payments in a timely manner, in accordance with the following:

(1) A payment received on or before 11:59 p.m. on the date on which that payment is due, in the amount, manner, and location indicated by the person engaged in student loan servicing, shall be credited as effective on the date on which the payment was received by the person engaged in student loan servicing in this state. A person engaged in student loan servicing in this state shall treat a payment received from the borrower on the borrower’s due date as an “on-time” payment.

(2) If a person engaged in servicing a student loan makes a material change in the mailing address, office, or procedures for handling borrower payments, and that change causes a material delay in the crediting of a borrower payment made during the
60-day period following the date on which that change took effect, the person engaged in servicing the student loan shall not impose on the borrower any negative consequences related to that material change, including negative credit reporting, lost eligibility for a borrower benefit, late fees, interest capitalization, or other financial injury.

(b) Apply an overpayment on a loan in a manner that is in the best financial interest of a student loan borrower, unless a borrower provides instructions to the contrary, consistent with subdivision (h) of Section 28130 of the Financial Code.

(1) A student loan servicer shall be considered to meet the requirements of this subdivision if the servicer applies the overpayment to the highest interest-rate loan on the borrower’s account, unless the borrower specifies otherwise.

(2) For purposes of this subdivision, “overpayment” means a payment on a student loan in excess of the monthly amount due from a borrower on a student loan, also commonly referred to as a prepayment.

(c) Apply partial payments in a manner that minimizes late fees and negative credit reporting.

(1) If there are multiple loans on a borrower’s account with an equal stage of delinquency, the person engaged in student loan servicing in this state shall satisfy the requirements of this subdivision by applying partial payments to satisfy as many loans as possible on a borrower’s account.

(2) For purposes of this subdivision, “partial payment” means a payment on a student loan in an amount less than the monthly amount due from a borrower on a student loan, also commonly referred to as an underpayment.

(d) (1) If a person engaged in student loan servicing imposes a fee on a borrower for a past due student loan payment, that fee shall be reasonable and proportional to the total costs incurred as a result of the late payment by a borrower, and shall not exceed 6 percent of any amount past due.

(2) A person engaged in servicing a student loan shall not impose a minimum late fee. For purposes of this paragraph, “minimum late fee” includes any fee that is not assessed as a percentage of any amount past due.

(e) Diligently oversee its service providers. For purposes of this subdivision, “diligently oversee its service providers” includes
maintaining policies and procedures to oversee compliance by
third-party service providers engaged in any aspect of student
loan servicing. Student loan servicers have joint and several
liability for the conduct of their service providers for any act or
practice that violates this title.

(f) (1) Timely process its paperwork, consistent with existing
federal requirements, including, but not limited to, ensuring that
customer service personnel have received both of the following:
(A) Appropriate training about the handling of paperwork.
(B) Access to necessary information about forms and
applications that are in process, have been approved, or have been
denied.
(2) The requirements of this subdivision include ensuring that
customer service personnel have access to applications for
income-driven repayment plans and other forms required to access
benefits and protections for federal student loans, as described in
Section 1070 and following of Title 20 of the United States Code.
(g) Maintain accurate records about borrowers’ accounts and
retain these records for the life of a student loan, unless otherwise
prohibited by law.
(h) Treat any inbound inquiry or complaint that cannot be
completed in a single phone call as a qualified request subject to
the same requirements and protections established for “qualified
written requests” under Section 28130 of the Financial Code, and
have policies and procedures permitting borrowers to escalate a
complaint or inquiry to a senior representative if the borrower is
dissatisfied with the outcome of the initial qualified request.
(i) Protect borrowers from any negative consequences that are
related to the issue identified in a borrower’s qualified request or
qualified written request. For purposes of this subdivision,
“negative consequences” includes, but is not limited to, negative
credit reporting, lost eligibility for a borrower benefit, late fees,
interest capitalization, or other financial injury. This subdivision
applies to all “qualified requests,” rather than only to “qualified
written requests” as described in Section 28130 of the Financial
Code.
(j) Protect borrowers from any negative consequences stemming
from a sale, assignment, transfer, system conversion, or any
payment made by the transferor service, consistent with the
transferor service’s policy. For purposes of this subdivision,
“negative consequences” includes, but is not limited to, any of the following:

(1) Negative credit reporting.

(2) The imposition of late fees.

(3) Loss of or denial of eligibility for any benefit or protection established under federal law or included in a loan contract.

(k) Ensure all necessary information regarding a borrower, a borrower’s account, and a borrower’s student loan accompanies a loan when it transfers to a new person engaged in servicing the borrower’s student loan within 45 calendar days of the effective date of the sale, assignment, or transfer, consistent with Section 28134 of the Financial Code. For purposes of this subdivision, “necessary information” shall include, at minimum, all of the following:

(1) A schedule of all transactions credited or debited to the student loan account.

(2) A copy of the promissory note for the student loan.

(3) Any notes created by servicer personnel reflecting communications with the borrower about the student loan account.

(4) A report of the data fields relating to the borrower’s student loan account created by the servicer’s electronic systems in connection with servicing practices.

(5) Copies of any information or documents provided by the borrower to the servicer.

(6) Usable data fields with information necessary to assess qualification for forgiveness, including public service loan forgiveness.

(7) Any information necessary to compile a payment history.

(l) Provide specialized training for any customer service personnel that advises military borrowers about student loan repayment benefits and protections. Under no circumstances shall a person engage in any unfair or deceptive practice toward any military borrower or misrepresent or omit any material information in connection with the servicing of a student loan owed by a military borrower. For purposes of this subdivision, “misrepresent or omit any material information” includes, but is not limited to, misrepresenting or omitting any of the following:

(1) The availability of any program or protection specific to military borrowers or applicable to military borrowers.
(2) The amount, nature, or terms of any fee or payment due or claimed to be due on a student loan.

(3) The terms and conditions of the student loan agreement.

(4) The borrower’s obligations under the student loan.

(m) Provide specialized training for any customer service personnel that advises borrowers working in public service, including teachers, about student loan repayment benefits and protections. Under no circumstances shall a person engage in any unfair or deceptive practice toward any borrower working in public service or misrepresent or omit any material information in connection with the servicing of a student loan owed by a borrower working in public service. For purposes of this subdivision, “misrepresent or omit any material information” includes, but is not limited to, misrepresenting or omitting any of the following:

(1) The availability of any program or protection specific to borrowers working in public service or applicable to those borrowers.

(2) The amount, nature, or terms of any fee or payment due or claimed to be due on a student loan.

(3) The terms and conditions of the student loan agreement.

(n) Provide specialized training for any customer service personnel that advises older borrowers about student loan repayment benefits and protections, including disability discharge programs for private and federal loans, and cosigner release provisions in private student loan contracts. Under no circumstances shall a person engage in any unfair or deceptive practice toward any older borrower or cosigner or misrepresent or omit any material information in connection with the servicing of a student loan owed or cosigned by an older borrower. For purposes of this subdivision, “misrepresent or omit any material information” includes, but is not limited to, misrepresenting or omitting any of the following:

(1) The availability of any program or protection specific to older borrowers or cosigners or applicable to those borrowers or cosigners.

(2) The amount, nature, or terms of any fee or payment due or claimed to be due on a student loan.

(3) The terms and conditions of the student loan agreement.
(4) The borrower’s or cosigner’s obligations under the student loan.

(o) Provide specialized training for any customer service personnel that advises borrowers with disabilities about student loan repayment benefits and protections, including disability discharge programs for private and federal loans. Under no circumstances shall a person engage in any unfair or deceptive practice toward any borrower with a disability or misrepresent or omit any material information in connection with the servicing of a student loan owed by a borrower with a disability. For purposes of this subdivision, “misrepresent or omit any material information” includes, but is not limited to, misrepresenting or omitting any of the following:

1. The availability of any program or protection specific to borrowers with disabilities or applicable to those borrowers.
2. The amount, nature, or terms of any fee or payment due or claimed to be due on a student loan.
3. The terms and conditions of the student loan agreement.
4. The borrower’s obligations under the student loan.

(p) Respond within 15 calendar days to communications from the Student Borrower Advocate, established pursuant to Chapter 1 (commencing with Section 1788.104), or within a shorter, reasonable time as the Student Borrower Advocate may request in their communication.

(q) Comply with Sections 28130, 28134, and 28136 of the Financial Code.

CHAPTER 3. ENFORCEMENT OF THE STUDENT BORROWER BILL OF RIGHTS

1788.103. (a) A person engaged in student loan servicing shall do both of the following:

1. Comply with this title.
2. Comply with all applicable federal laws relating to student loan servicing, as from time to time amended, and the regulations promulgated thereunder.

(b) Any consumer who suffers damage as a result of the failure of a person engaged in student loan servicing to comply with paragraph (1) or (2) of this subdivision may bring an action on their own behalf and on behalf of a similarly situated class of
consumers against that person to recover or obtain any of the following:

(1) Actual damages, but in no case, shall the total award of damages action be less than five hundred dollars ($500).

(2) An order enjoining the methods, acts, or practices.

(3) Restitution of property.

(4) Punitive damages.

(5) Attorney’s fees.

(6) Any other relief that the court deems proper.

(c) In addition to any other remedies provided by this subdivision or otherwise provided by law, whenever it is proven by a preponderance of the evidence that a person engaged in student loan servicing has engaged in conduct that substantially interferes with a borrower’s right to an alternative payment arrangement; loan forgiveness, cancellation or discharge; or any other financial benefit as established under the terms of a borrower’s promissory note or under the Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.), as from time to time amended, and the regulations promulgated thereunder, the court shall award treble actual damages to the plaintiff, but in no case shall the award of damages less than one thousand five hundred dollars ($1500) per plaintiff, per violation.

Chapter 4. Establishment of The California Student Borrower Advocate to Stand Up for the Rights of Student Borrowers

1788.104. (a) Not later than 180 days following the operative date of this title, the commissioner shall designate a Student Borrower Advocate within the department to provide timely assistance to any student loan borrower with any student loan. The Student Borrower Advocate shall hire additional staff as necessary to implement this section.

(b) The Student Borrower Advocate shall receive and review complaints from student loan borrowers.

(c) Any complaint regarding a student loan servicer licensed or subject to licensing under the Student Loan Servicing Act (Division 12.5 (commencing with Section 28100) of the Financial Code) shall be referred to the appropriate unit within the department. This unit may investigate complaints referred by the
Student Borrower Advocate, and from the public, who may also submit complaints directly to the department.

(d) Complaints regarding student loan servicers not subject to licensing under the Student Loan Servicing Act (Division 12.5 (commencing with Section 28100) of the Financial Code) shall be referred to the Department of Justice. The Department of Justice may investigate complaints regarding student loan servicers referred by the Student Borrower Advocate, and from the public, who may also submit complaints directly to the Department of Justice.

(e) Complaints regarding any private postsecondary educational institution licensed by the Bureau for Private Postsecondary Education shall be referred to the Bureau for Private Postsecondary Education’s Office of Student Assistance and Relief.

(f) The Student Borrower Advocate shall confer with the Department of Business Oversight, the Department of Justice, and the Office of Student Assistance and Relief regarding the student loan servicing complaints, the proper referral processes for those complaints, and the reporting requirements of the Student Borrower Advocate under this title.

(g) The Student Borrower Advocate has all of the following duties:

1. Compiling and analyzing data on student loan borrower complaints received and referred to the Department of Business Oversight and the Department of Justice.

2. Assisting student loan borrowers in understanding their rights and responsibilities under the terms of student loans, including reviewing the complete student loan history for any student loan borrower who has provided written consent for the review.

3. Providing information to the public, agencies, legislators, and others regarding the problems and concerns of student education loan borrowers and making recommendations for resolving those problems and concerns.

4. Analyzing and monitoring the development and implementation of federal, state, and local laws, rules, regulations, and policies relating to student education loan borrowers and recommend any changes the student loan advocate deems necessary.
(5) Assessing the number of residents with federal student loans who have applied for, received, or are awaiting a decision on forgiveness or discharge of a student education loan on a comparable annual basis, subject to the availability of applicable data.

(6) Disseminating information concerning the availability of the Student Borrower Advocate to assist student loan borrowers and potential student loan borrowers, as well as institutions of higher education, student loan servicers, and any other participant in student loan lending, with any student loan concerns.

(7) Taking any action reasonably calculated or intended to assist student loan borrowers, including providing assistance applying for forgiveness or discharge of a student loan and communicating with a student loan servicer to resolve a complaint received by the advocate from a student loan borrower.

(8) Requesting and compiling data provided by any student loan servicer if reasonably determined by the Student Borrower Advocate to be necessary to effectuate the duties described in this subdivision. If the Student Borrower Advocate determines it is necessary to compel the production of that data via examination or subpoena, the Department of Business Oversight shall coordinate with the Student Borrower Advocate to effectuate this production.

(9) Not later than 18 months after enactment of this title, and not less frequently than once per year thereafter, the Student Borrower Advocate shall submit a report to the appropriate committees of the Legislature having jurisdiction over higher education and financial institutions, including any recommendations the Student Borrower Advocate deems necessary. The Student Borrower Advocate shall report on all of the following:

(A) The implementation of this section.

(B) The overall effectiveness of the Student Borrower Advocate.

(C) The types of complaints received regarding student loan borrowing, student loan repayment and servicing, and how these complaints are resolved.

(D) Other data and analysis on outstanding student loan issues faced by borrowers.
Chapter 5. Shining a Spotlight on Student Loan Industry Practices

1788.105. (a) The department shall monitor for risks to consumers in the provision of student loan servicing, including developments in the market for those services.

(b) In conducting any monitoring or assessment required by this section, the commissioner may gather information regarding the organization, business conduct, markets, and activities of persons engaged in student loan servicing. The commissioner may enter into contracts to perform the duties required in this section, as necessary.

(c) In order to gather information described in subparagraph (b), the commissioner may do both of the following:

(1) Gather and compile information from a variety of sources, including examination reports concerning persons engaged in student loan servicing, consumer complaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews with persons engaged in student loan servicing and service providers, and review of available databases.

(2) Require persons engaged in student loan servicing and licensed or subject to the licensing requirements of the Student Loan Servicing Act (Division 12.5 (commencing with Section 28100) of the Financial Code) to file, under oath or otherwise, in the form and within a reasonable period of time as the commissioner may prescribe, annual or special reports, or answers in writing to specific questions, as necessary for the commissioner to fulfill the monitoring, assessment, and reporting responsibilities required in this title.

(d) (1) In addition to any other market monitoring activities deemed necessary by the commissioner, pursuant to subdivision (a), the department shall, not later than 180 days following the operative date of this title, gather and compile information from persons engaged in student loan servicing to assemble data substantially similar to the data collection proposed in the “Student Loan Market Monitoring” initiative described by the Consumer Financial Protection Bureau contained in Volume 82 of the Federal Register, Number 171, page 11440, dated September 6, 2017.

(2) The commissioner shall, on a quarterly basis, develop and publicize metrics based on data collected pursuant to this
subdivision, and those metrics shall identify each person engaged
in student loan servicing and publish relevant metrics related to
performance of student loan servicing by each person. In executing
the function described in this subdivision, the department shall,
not less than on a quarterly basis, meet and confer with the Student
Borrower Advocate established pursuant to Chapter 4.

SEC. 3. Section 28106 of the Financial Code is amended to
read:
28106. (a) The commissioner shall administer the provisions
of this division and may promulgate rules and regulations and issue
orders consistent with that authority.
(b) Without limitation, the functions, powers, and duties of the
commissioner include all of the following:
(1) To issue or refuse to issue a license as provided by this
division.
(2) To revoke or suspend for cause any license as provided by
this division.
(3) To keep records of licenses issued under this division.
(4) To receive, consider, investigate, and act upon complaints
made in connection with a licensee.
(5) To prescribe the forms of and receive (A) applications for
licenses and (B) reports, books, and records required to be made
by a licensee under this division, including annual audited financial
statements.
(6) To subpoena documents and witnesses and compel their
attendance and production, to administer oaths, and to require the
production of books, papers, or other materials relevant to any
inquiry authorized by this division.
(7) To require information with regard to an applicant that the
commissioner may deem necessary, with regard for the paramount
public interest in ascertaining the experience, background, honesty,
truthfulness, integrity, and competency of an applicant for servicing
student loans, and if an applicant is an entity other than an
individual, in ascertaining the honesty, truthfulness, integrity, and
competency of officers, directors, or managing members of the
corporation, association, or other entity, or the general partners of
a partnership.
(8) To enforce by order any provision of this division.
(9) To levy fees, fines, and charges in an amount sufficient to cover the cost of the services performed in administering this division.

(10) To appoint examiners, attorneys, supervisors, experts, and special assistants as needed to effectively and efficiently administer this division.

(c) The commissioner shall administer the provisions of Title 1.6C.10 (commencing with Section 1788.100 of the Civil Code) governing the rights of student loan borrowers.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SECTION 1. It is the intent of the Legislature to enact legislation to amend the Student Loan Servicing Act to better protect student loan borrowers in California.