To amend the Higher Education Act of 1965 to amend the process by which students with certain special circumstances apply for Federal financial aid.

IN THE SENATE OF THE UNITED STATES

Mr. Cardin (for himself and Mr. Van Hollen) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Higher Education Act of 1965 to amend the process by which students with certain special circumstances apply for Federal financial aid.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “FAFSA Fairness Act of 2019”.

SEC. 2. PROVISIONAL INDEPENDENCE FOR CERTAIN STUDENTS.

Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—
(1) in subsection (h)(1), by inserting the following before the semicolon: “, including the special circumstances under which a student may qualify for a determination of independence”; and

(2) by adding at the end the following:

“(i) PROVISIONAL INDEPENDENT STUDENTS.—

“(1) REQUIREMENTS FOR THE SECRETARY.—

The Secretary shall—

“(A) enable each student who, based on the special circumstance specified in subsection (h)(1), may qualify for an adjustment under section 479A that will result in a determination of independence under such section and section 480(d)(1)(I), to complete the forms developed by the Secretary under subsection (a) as an independent student for the purpose of a provisional determination of the student’s Federal financial aid award, but subject to verification under paragraph (2)(E) for the purpose of the final determination of the award;

“(B) upon completion of the forms developed by the Secretary under subsection (a), provide an estimate of the student’s Federal Pell Grant award, based on the assumption the
student is determined to be an independent student;

“(C) ensure that, on each form developed under this section, there is a single and easily understood screening question to identify an applicant for aid who wishes to provisionally apply for independent status under sections 479A and 480(d)(1)(I); and

“(D) specify, on the forms, the consequences under section 490(a) of knowingly and willfully completing the forms as an independent student under subparagraph (A) without meeting the special circumstances to qualify for such a determination.

“(2) Requirements for financial aid administrators.—With respect to a student accepted for admission who completes the forms as an independent student under paragraph (1)(A), a financial aid administrator—

“(A) shall notify the student of the institutional process and requirements for an adjustment under sections 479A and 480(d)(1)(I) that will result in a determination of independence under such sections within a reasonable time after the student completes the forms de-
developed by the Secretary under subsection (a) as an independent student for the purpose of a provisional determination of the student’s Federal financial aid award;

“(B) may make an adjustment under sections 479A and 480(d)(1)(I) for a determination of independence in the absence of conflicting information;

“(C) shall provide a final determination of the student’s Federal financial aid award to the student in the same manner as, and by not later than the date that, the administrator provides most other provisionally independent students their final determinations of Federal financial aid awards, or during the award year in which the student initially submits an application, whichever comes sooner;

“(D) shall, in making a final determination of the student’s Federal financial aid award, use the discretion provided under sections 479A and 480(d)(1)(I) to verify whether the student meets the special circumstances to qualify as an independent student;

“(E) in accordance with paragraph (B), may consider as adequate verification that a
student qualifies for an adjustment under sections 479A and 480(d)(1)(I)—

“(i) submission of a court order or official Federal or State documentation that the student’s parent or legal guardian is incarcerated in any Federal or State penal institution;

“(ii) a documented phone call with, or a written statement from—

“(I) a child welfare agency authorized by a State or county;

“(II) a Tribal child welfare authority;

“(III) an independent living case worker; or

“(IV) a public or private agency, facility, or program serving the victims of abuse, neglect, assault, or violence;

“(iii) a documented phone call with, or a written statement from, an attorney, a guardian ad litem, or a court appointed special advocate, documenting that person’s relationship to the student;
“(iv) a documented phone call with, or a written statement from, a representative of a program under chapter 1 or 2 of sub-part 2 of part A; or

“(v) submission of a copy of the student’s biological or adoptive parents’ or legal guardians’—

“(I) certificates of death; or

“(II) verified obituaries;

“(F) if a student does not have, and cannot get, documentation from any of the designated authorities described in subparagraph (E) of whether a student may qualify for an adjustment under sections 479A and 480(d)(1)(I) that will result in a determination of independence, may base the verification and final determination on—

“(i) a documented interview with the student that is limited to whether the student meets the requirements, and not about the reasons for the student’s situations; and

“(ii) an attestation from the student that they meet the requirements, which includes a description of the approximate
dates that the student ended the financial
or caregiving relationship with their parent
or legal guardian, to the best of the stu-
dent’s knowledge;

“(G) retain all documents related to the
adjustment under sections 479A and
480(d)(1)(I), including documented interviews,
for the duration of the student’s enrollment at
the institution and for a minimum of 1 year
after the student is no longer enrolled at the in-
stitution; and

“(H) shall presume that any student who
has obtained an adjustment under sections
479A and 480(d)(1)(I) and a final determina-
tion of independence for a preceding award year
at an institution to be independent for a subse-
quent award year at the same institution un-
less—

“(i) the student informs the institu-
tion that circumstances have changed; or

“(ii) the institution has specific con-
flicting information about the student’s
independence.”.