

# Study: Gender bias may impact student loan bankruptcy decisions

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New research reveals gender bias can creep into student loan bankruptcy court cases.

FIU legal psychology graduate student Kelsey Hess and a team of FIU psychologists—including Jacqueline Evans and Deborah Goldfarb—examined nearly 900 student loan discharge decisions

handled in U.S. [bankruptcy](#) courts between 1985 to 2020. In addition to gender, researchers also factored in other variables, including marital status, the number of children, medical issues or documented disability claims, as well as if an attorney was present.

They found gender played a somewhat complex, but important role in the outcome of the cases. Single mothers were more likely to have their loans discharged than single fathers. However, when a debtor disclosed a medical issue that could interfere with their ability to earn a living, males had a substantial advantage over females. In fact, men were 93 percent more likely to have their loans discharged when disclosing a [medical condition](#), as compared to women who disclosed medical conditions.

"It's not always clear-cut how gender influences a student loan discharge decision," Hess said. "With this study, what we're actually seeing is how special circumstances can be tied closely to gender and traditional gender roles. Certain factors were not weighted equally between male and female debtors."

In the United States, women hold about two-thirds of student loan debt. As women outnumber men in pursuing [college degrees](#), and the cost of higher education becomes more expensive, it's expected women will continue to be the primary holders of student loan debt. Compounding this problem may be the gender pay gap. When women enter the workforce, they tend to earn less—meaning less money is available to put toward repayments. Down the line, this could lead to more women trying to get their student loans discharged in bankruptcy court. This is just one of the reasons Hess and the team wanted to research this issue.

The bankruptcy process for student loans differs from typical bankruptcy proceedings and certain criteria have to be met, including an "undue hardship" test. As Evans points out, it's not simply about presenting bills and proving income. Instead, it can be a laborious

process of putting together the full picture of a person's private life—something not many people want to do in front of a court.

For this study, the researchers were contacted by a judge who works in a U.S. bankruptcy court about conducting a study like this.

"This is a great example of when academia and the judiciary partner together, and work together to ask important questions," Goldfarb said. "Our work here highlights FIU's Legal Psychology's goal of working with and making a difference in the community."

The researchers emphasize one important focus of the study—in terms of biases that deserve special attention— [women](#)'s medical conditions are discounted in court. Especially because it mirrors other research that shows female patients' pain is taken less seriously than the same pain levels in male patients, leading to differences in treatment. If a woman's doctor fails to take her pain seriously, she may be less likely to share it in bankruptcy court—and even if she does, there's no guarantee the court will believe it enough to discharge the loans.

The presence of an attorney is another element to this study that also deserves attention, the team says. Because bankruptcy [court](#) involves civil cases, an attorney is not provided. However, an attorney can drastically impact the outcome of the case. Getting an attorney, though, can be a tremendous hurdle for a person already facing down burdensome, debilitating debt.

"Our hope with this study is that, of course, bankruptcy judges can root out potential inappropriate extralegal influences on their own decisions," Hess said. "We also want this research to be a jumping-off point. We have other questions to ask and answer, like what kind of systemic changes can be made at the level of the courts and how can mechanisms for providing attorneys to debtors be put in place."

This study was published in *Psychology, Public Policy, and Law*.

The team has also presented the findings to the National Conference of Bankruptcy Judges (NCBJ), as well as the American Bar Association, and received positive feedback. Recently, they received a grant from NCBJ to continue and expand their research in this area.

**More information:** The influence of gender and other extralegal factors on student loan bankruptcy decisions. *Psychology, Public Policy, and Law*. [psycnet.apa.org/buy/2022-23864-001](https://psycnet.apa.org/buy/2022-23864-001)

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