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Senate's bankruptcy reform can dig deeper financial holes

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Stephanie Birket said bankruptcy reform legislation passed by the Senate yesterday means, "I would be paying bills for the rest of my life" after her son's emergency medical condition left her with \$30,000 in debt.

The Woodbridge, Va., waitress had a three-day lapse in her medical insurance coverage, which was when her 2-year-old son starting getting serious seizures.

Though she regularly pays her routine bills, her inability to pay her son's recent medical bills is forcing her into bankruptcy.

Under current law, her attorneys have told her she could escape the debt. Under the law supported by the Bush administration, she would be forced to pay.

"My routine bills are fine," Mrs. Birket said. "I have all that under control. But when it came down to the medical bills, it just threw me over too hard."

The Senate bill would result in many debtors with steady incomes who can pay at least \$100 a month being unable to avoid their bills.

The American Bankers Association estimates the average U.S. household pays \$400 a year to cover consumers' bills that were discharged in bankruptcy.

There were 1,618,987 bankruptcies in 2004, slightly lower than the record 1,661,996 bankruptcies in 2003.

Other provisions of the bill set up a test that would make it harder for debtors who earn at least their state's median income to avoid paying their bills. It also would require debtors filing for bankruptcy to pay for credit counseling and give top priority among creditors to a spouse's claims for child support.

Critics of the legislation, such as Sen. Edward M. Kennedy, Massachusetts Democrat, and the National Association of Consumer Bankruptcy Attorneys, say it overlooks irresponsible credit policies of lending institutions.

Supporters said bankruptcy often was the last refuge of gamblers, impulsive shoppers, divorced or separated fathers avoiding child support, and multimillionaires -- often celebrities -- who buy mansions in states with liberal homestead exemptions to shelter assets from creditors.

Tara Kelly, an Atlanta paralegal, claims to be one of the victims.

She ran up a \$2,000 debt on her credit card that escalated to \$5,600 in a few months from interest and late fees.

"I was basically trying to pay this credit card, but they just kept slapping on these late fees and interest and tripled the amount," said Miss Kelly, a single mother.

Eventually, a collection agency began calling, prompting Miss Kelly to file for bankruptcy.

"I was totally embarrassed about having to file, but one good thing out of it was that I was able to get a fresh start," she said.

With the bankruptcy reform legislation, "I would have been stuck in paying this debt," Miss Kelly said.

Her attorney, Susan Shiptenko, said legal fees for bankruptcy filers would rise under the reform legislation.

"It's going to make it a lot more difficult because of the amount of documentation required," Mrs. Shiptenko said.

Debtors would have to submit tax returns and affidavits verifying the value of their assets to bankruptcy courts. Their attorneys would then need to submit a second verification of assets.

"What do we do, go out to their houses and take pictures of their toaster ovens," Mrs. Shiptenko said. "It puts a

lot more liability on us as their attorneys."

Business groups say that if individual consumers fail to pay their debts, everyone else pays for them.

"What we often see is people walking into retail stores and loading up on merchandise, then they'll turn around and file for bankruptcy," said Katherine Lugar, lobbyist for the National Retail Federation. "The retailer, at the end of the day, loses."

Officials from Boscov's Department Stores, which operates in mid-Atlantic states, say that if unnecessary bankruptcies could be reduced, "We can pass along those savings to the customers."

"Over the last 10 years, we have seen spiraling bankruptcies," said Dean Sheaffer, Boscov's vice president for credit.

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