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HOUSE BILL NO. 2425

Offered January 18, 2023

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-208.2, relating to Secretary of Education; institutions of higher education; information about institutional debt; report; civil penalty.*

 Patron—Bagby

 Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 2.2-208.2 as follows:**

§ 2.2-208.2. Institutions of higher education; information about institutional debt; report; civil penalty.

A. As used in this section:

"Administrative hold" means any freeze or limitation placed on the account of a student with institutional debt by a provider of higher education that prevents the student from enrolling in courses, requesting a transcript, using facilities, or having the student's degree conferred or otherwise limits the student's institutional access relative to students who do not owe an institutional debt.

"Institutional debt" means an extension of credit or a debt or obligation owed or incurred by a student to a provider of higher education, whether contractual or otherwise, contingent or absolute, that is used to finance the student's education at the provider of higher education. "Institutional debt" includes federal or private student loans owed directly to the provider of higher education, past-due tuition and room and board expenses, and fines and fees.

"Nonjudicial collection" means any offset or garnishment of a student's public benefits or wages to pay an institutional debt that is done without a court order and without the explicit consent of the student.

"Provider of higher education" or "provider" means any postsecondary school, as that term is defined in § 23.1-213, or any public institution of higher education or private institution of higher education, as those terms are defined in § 23.1-100, regardless of whether such school or institution provides education via correspondence, online, or in person, and, in the case of a postsecondary school, regardless of its accreditation status or approval or certification to operate in the Commonwealth.

"Student" means any individual who received a partial or complete education from a provider of higher education and who allegedly owes the provider an institutional debt as a result, regardless of whether the individual is currently enrolled at such provider.

"Voluntary payments" means payments made by a student to a provider of higher education to cover an institutional debt that are not made pursuant to a court judgment or nonjudicial collection.

"Voluntary payments" includes payment plans on an institutional debt that are entered into between a student and a provider of higher education prior to the initiation of any collection lawsuit.

B. On January 1 of each calendar year, any person acting as a provider of higher education in the Commonwealth shall provide to the Secretary the following documents and information about its institutional debt as of the end of the prior calendar year:

1. The number of students who owe an institutional debt and total outstanding dollar amount owed;

2. A breakdown of total institutional debt by the following categories, including the number of students and total dollar amount owed for each:

a. Amounts owed in increments of \$500;

b. Time since the debt accrued in increments of one year;

c. The age of the student in increments of five years;

d. The education expense underlying the debt, including tuition, room and board, other components of the provider's cost of attendance, fines, fees, and other;

e. The race and ethnicity of the student, specifying African American/Black, Native American, Asian/Pacific Islander, Foreign/International, Hispanic, Multi-Race, Unknown/Unreported, White/Caucasian, or Other;

f. The gender of the student;

g. The degree level pursued by the student, specifying nondegree, undergraduate, or graduate;

h. Whether the student is considered in-state or out-of-state; and

i. Whether the student ever received a federal Pell Grant;

3. The total number of students whose federal financial aid was returned to the federal government upon the student's withdrawal from the provider of higher education during the most recent calendar

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59 year and the total dollar amount of any institutional debt that accrues as a result, broken down by the
60 following categories, including the number of students and total dollar amount owed for each:

- 61 a. Amounts owed in increments of \$500;
- 62 b. Time since the debt accrued in increments of one year;
- 63 c. The age of the student in increments of five years;
- 64 d. The education expense underlying the debt, including tuition, room and board, other components
65 of the institution's cost of attendance, fines, fees, and other;
- 66 e. The race and ethnicity of the student, specifying African American/Black, Native American,
67 Asian/Pacific Islander, Foreign/International, Hispanic, Multi-Race, Unknown/Unreported,
68 White/Caucasian, or Other;
- 69 f. The gender of the student;
- 70 g. The degree level pursued by the student, specifying nondegree, undergraduate, or graduate;
- 71 h. Whether the student is considered in-state or out-of-state; and
- 72 i. Whether the student ever received a federal Pell Grant;

73 4. The total number of students whose transcripts are being withheld due to an institutional debt and
74 the total dollar amount owed by those students;

75 5. The total number of students whose transcripts were being withheld due to an institutional debt
76 who made voluntary payments during the most recent calendar year and the total dollar amount of
77 those payments;

78 6. The total number of students who have satisfied all degree or credential requirements but whose
79 degree has not been conferred by the provider due to an institutional debt and the total dollar amount
80 owed by those students;

81 7. The total number of students who have satisfied all degree or credential requirements but whose
82 degree has not been conferred by the provider due to an institutional debt who made voluntary
83 payments during the most recent calendar year and the total dollar amount of those payments;

84 8. The total number of students with institutional debt and the total dollar amount owed for which
85 the provider has:

- 86 a. Sent the debt to a third-party collection agency;
- 87 b. Initiated a collection lawsuit;
- 88 c. Engaged in nonjudicial collections;
- 89 d. Reported the debt to a consumer credit reporting agency; or
- 90 e. Sold the debt;

91 9. The total number of students from which the provider of higher education has collected an
92 institutional debt, and the total dollar amount collected, through:

- 93 a. Voluntary payments;
- 94 b. A third-party collection agency prior to initiating a lawsuit;
- 95 c. A collection lawsuit, including payments made by settlement or pursuant to a judgment; and
- 96 d. Nonjudicial collections;

97 10. Any policies related to:

- 98 a. Placing an administrative hold on a student's account in response to an institutional debt,
99 including any minimum amount owed that results in such a hold, the types of administrative holds that
100 may be imposed, and actions required to lift a hold;
- 101 b. Sending an institutional debt to a third-party collection agency;
- 102 c. Initiating a collection lawsuit to collect on an institutional debt;
- 103 d. Reporting an institutional debt to a consumer credit reporting agency; and
- 104 e. Engaging in nonjudicial collections;

105 11. A copy of any model written instrument used by the provider during the prior calendar year to
106 substantiate an institutional debt, including a promissory note, enrollment agreement, or contract; and

107 12. Additional information as may in the judgment of the Secretary be necessary and appropriate in
108 order to assess the total size and status of institutional debts outstanding and owed to providers of
109 higher education operating in the Commonwealth and the practices that such providers use to collect
110 those debts.

111 C. Not later than July 1 of each calendar year, the Secretary, with the cooperation and assistance of
112 the State Council of Higher Education for Virginia, shall issue a report that includes the information
113 and documents provided by each provider pursuant to subsection B.

114 D. Nothing in this section shall require a provider of higher education to report the personally
115 identifiable information of any student.

116 E. In addition to such powers as may otherwise be prescribed by this article or elsewhere in law, the
117 Secretary may adopt such rules and policies as may, in the judgment of the Secretary, be consistent with
118 the purposes of this section or appropriate for the effective administration of this section.

119 F. If the Secretary finds, after notice and hearing, that a provider of higher education has knowingly
120 violated the provisions of this section by failing to comply with any reporting requirement or by

121 *furnishing inaccurate information to the Secretary, the Secretary may impose a civil penalty of not more*
122 *than \$10,000 for each violation.*
123 *G. If any provision of this section or the application thereof to any person or circumstance is*
124 *adjudged invalid by a court of competent jurisdiction, that judgment shall not affect or impair the*
125 *validity of the other provisions of this section or the application thereof to other persons and*
126 *circumstances.*

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