STATE OF NEW YORK

6938--A

2021-2022 Regular Sessions

IN ASSEMBLY

April 14, 2021

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the education law, in relation to prohibiting certain practices in the collection of education debt

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 601 of the general business law is amended by adding a new subdivision 12 to read as follows:

12. Notwithstanding section three hundred fifty-five of the education law or 8 NYCRR Part 302, withhold a student's transcript for failure to pay past or presently due tuition, condition the provision of a transcript on the payment of a debt, other than a fee charged to provide the transcript, or otherwise use transcript issuance as a tool for debt collection.

§ 2. Section 602 of the general business law is amended by adding a new subdivision 4 to read as follows:

4. Any violation of this article is also a deceptive act and practices under section three hundred forty-nine of this chapter.

§ 3. Section 2 of the education law is amended by adding a new subdivision 25 to read as follows:

25. Debt. The term "debt" means any money, obligation, claim, or sum, due or owing, or alleged to be due or owing, from a student, but does not include the fee, if any, charged to all students for the actual costs of providing the transcripts.

§ 4. The education law is amended by adding a new article 13-C to read as follows:

ARTICLE 13-C
STUDENT DEBT; PROHIBITED PRACTICES

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08218-04-1

Section 640. Student debt; prohibited practices.

§ 640. Student debt; prohibited practices. 1. Notwithstanding any provisions of law, no institution of higher education, including colleges, universities, and organizations offering career education, as defined in section two of this chapter shall:

(a) withhold a student's transcript for failure to pay past or presently due tuition;

(b) condition the provision of a transcript on the payment of a debt, other than a fee charged to provide the transcript;

(c) charge a higher fee for obtaining a transcript, or provide less favorable treatment of a transcript request because a student owes a debt; or

(d) use transcript issuance as a tool for debt collection.

2. In addition to such penalties as may otherwise be applicable by law, the commissioner or the superintendent of financial services may, after notice and hearing, enjoin such transcript withholding practices and require any college found to be violating the provisions of this article or the rules or regulations promulgated hereunder to pay to the people of this state a penalty of five hundred dollars for each violation.

3. In addition to the right of action granted to the department or the superintendent of financial services pursuant to this section, any person who has been injured by reason of any violation of this section may bring an action in their own name to enjoin such unlawful act or practice. The court may, in its discretion, award reasonable attorney's fees to the prevailing plaintiff.

4. Nothing in this article shall limit any statutory or common law right of any person to bring any action in any court for any act, or the right of the state to punish any person for any violation of law.

§ 5. This act shall take effect on the thirtieth day after it shall have become a law.