

116TH CONGRESS
2D SESSION

S. 5023

To suspend and reform the authority under the Higher Education Act of 1965 for the Secretary of Education to carry out an administrative wage garnishment program.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2020

Mr. BOOKER (for himself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To suspend and reform the authority under the Higher Education Act of 1965 for the Secretary of Education to carry out an administrative wage garnishment program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Administrative
5 Garnishment Act of 2020”.

6 **SEC. 2. SUSPENSION OF WAGE GARNISHMENT.**

7 Section 488A of the Higher Education Act of 1965
8 (20 U.S.C. 1095a) is amended by adding at the end the
9 following:

1 “(f) SUSPENSION OF AUTHORITY.—

2 “(1) IN GENERAL.—Beginning on the date of
3 enactment of the Ending Administrative Garnish-
4 ment Act of 2020, the authority provided under sub-
5 section (a) to garnish the disposable pay of an indi-
6 vidual shall be suspended until the date the Sec-
7 retary submits to the Committee on Health, Edu-
8 cation, Labor, and Pensions of the Senate and the
9 Committee on Education and Labor of the House of
10 Representatives the certification described in para-
11 graph (2).

12 “(2) CERTIFICATION.—Not earlier than 1 year
13 after the date of enactment of the Ending Adminis-
14 trative Garnishment Act of 2020, the Secretary shall
15 submit to the Committee on Health, Education,
16 Labor, and Pensions of the Senate and the Com-
17 mittee on Education and Labor of the House of
18 Representatives a certification that either—

19 “(A) the Secretary has implemented a
20 process through which—

21 “(i) individuals who have had their
22 disposable pay improperly garnished in vio-
23 lation of this section, or of any other in-
24 struction by the Secretary, are able to have
25 their refund processed and returned to

1 them not later than one calendar week
2 after the date of such violation;

3 “(ii) the Secretary can independently
4 cease or suspend the administrative wage
5 garnishment program authorized under
6 this section at any time, at the sole discre-
7 tion of the Secretary, including suspension
8 of the garnishment of any individual stu-
9 dent loan borrower or a cohort of bor-
10 rowers; and

11 “(iii) the Secretary obtains a quar-
12 terly verification from each employer
13 through which garnishment is carried out
14 under this section that all information nec-
15 essary to implement garnishment under
16 this section with respect to an individual
17 employee is accurate, including an estimate
18 of the amount scheduled to be garnished in
19 the subsequent quarter, and the name, ad-
20 dress, phone number, and email address
21 for both the employee and the employer; or

22 “(B) the Secretary is unable to implement
23 the process described in subparagraph (A) and
24 has determined that the garnishment of the dis-

1 posable pay shall not apply to individuals as au-
2 thorized under subsection (a).

3 “(3) DATA COLLECTION.—

4 “(A) IN GENERAL.—If the Secretary sub-
5 mits a certification under paragraph (2) that
6 the Secretary has implemented the process de-
7 scribed in paragraph (2)(A), the Secretary,
8 upon submission of such certification, shall es-
9 tablish a centralized database containing—

10 “(i) the addresses, occupations, em-
11 ployers, and other collectible demographic
12 data of individuals whose disposable pay
13 was subject to garnishment under this sec-
14 tion on the day before the date of enact-
15 ment of the Ending Administrative Gar-
16 nishment Act of 2020; and

17 “(ii) the addresses, occupations, em-
18 ployers, and other collectible demographic
19 data of individuals whose disposable pay is
20 subject to garnishment under subsection
21 (a).

22 “(B) REPORT.—Not later than 90 days
23 after the date the Secretary establishes the
24 database under subparagraph (A), and not less
25 often than annually thereafter, the Secretary

1 shall submit a report to the Committee on
2 Health, Education, Labor, and Pensions of the
3 Senate and the Committee on Education and
4 Labor of the House of Representatives summa-
5 rizing the information contained in the database
6 and evaluating the exercise of the Secretary's
7 authority under subsection (a).

8 “(g) RIGHT OF ACTION AGAINST EMPLOYER.—The
9 employer shall be liable for, and the Secretary, the guar-
10 anty agency, or an individual, as appropriate, may sue the
11 employer in a State or Federal court of competent juris-
12 diction to recover, any amount that such employer improp-
13 erly withholds from wages due an employee following re-
14 ceipt by such employer of notice of suspension or revoca-
15 tion of the withholding order, and actual damages, plus
16 attorneys' fees, costs, and, in the court's discretion, puni-
17 tive damages.

18 “(h) DEPARTMENT ACTION AFTER IMPROPER GAR-
19 NISHMENT.—Not later than 10 days after the date the
20 Secretary receives an individual's disposable pay that has
21 been improperly garnished, the Secretary shall pay the
22 borrower twice the actual amount of wages garnished.
23 Notwithstanding section 432(a)(2), an injunction against
24 the Secretary may be issued to enforce this subsection.

1 “(i) LIMITS ON USE.—The Secretary may not gar-
 2 nish the disposable pay of an individual under this section
 3 with respect to a loan that has been outstanding for more
 4 than 10 years.”.

5 **SEC. 3. PARITY WITH INCOME-DRIVEN REPAYMENT.**

6 Section 488A of the Higher Education Act of 1965
 7 (20 U.S.C. 1095a) is amended by striking subsection
 8 (a)(1) and inserting:

9 “(1)(A) PARITY WITH INCOME-DRIVEN REPAY-
 10 MENT.—The amount deducted in any calendar
 11 month shall not exceed the amount that a similarly-
 12 situated individual would be required to make for
 13 such month under the income-driven repayment plan
 14 that offers the lowest monthly payment.

15 “(B) INCOME-DRIVEN REPAYMENT DEFINED.—
 16 In this subsection, the term ‘income-driven repay-
 17 ment’ means—

18 “(i) income-based repayment authorized
 19 under section 493C for loans made, insured, or
 20 guaranteed under part B or part D; or

21 “(ii) income contingent repayment author-
 22 ized under section 455(e), for loans made under
 23 part D.

24 “(C) SIMILARLY-SITUATED INDIVIDUAL DE-
 25 FINED.—With respect to an individual, the term

1 ‘similarly situated individual’ means another indi-
 2 vidual with an eligible loan who would be eligible to
 3 enroll in income-driven repayment and has the same
 4 income and family size characteristics.”.

5 **SEC. 4. COLLECTION AND COMPROMISE.**

6 Section 3711 of title 31, United States Code, is
 7 amended by adding at the end the following:

8 “(j) ADDITIONAL REQUIREMENTS FOR THE UNITED
 9 STATES DEPARTMENT OF EDUCATION.—

10 “(1) IN GENERAL.—Nothing in this section
 11 shall permit the Secretary of Education to exercise
 12 any authority under this section without first satis-
 13 fying the requirements established under section
 14 488A(f) of the Higher Education Act of 1965 (20
 15 U.S.C. 1095a(f)).

16 “(2) PARITY WITH INCOME-DRIVEN REPAY-
 17 MENT.—

18 “(A) IN GENERAL.—Notwithstanding any
 19 other provision of law, for any debts owed to
 20 the Department of Education or insured by the
 21 Department of Education, the total amount col-
 22 lected under this section shall not exceed the
 23 amount that a similarly situated individual
 24 would be required to make for such month
 25 under the income-driven repayment plan that

offers the lowest monthly payment, or by year
in the case of a tax refund offset.

“(B) DEFINITIONS.—In this subsection:

“(i) INCOME-DRIVEN REPAYMENT.—
The term ‘income-driven repayment’
means—

“(I) income-based repayment au-
thorized under section 493C of the
Higher Education Act of 1965 (20
U.S.C. 1098e) for loans made, in-
sured, or guaranteed under part B or
part D of title IV of such Act; or

“(II) income contingent repay-
ment authorized under section 455(e)
of such Act (20 U.S.C. 1087e(e)), for
loans made under part D of title IV
of such Act.

“(ii) SIMILARLY SITUATED INDIVIDUAL.—With respect to an individual,
the term ‘similarly situated individual’
means another individual with an eligible
loan who would be eligible to enroll in in-
come-driven repayment and has the same
income and family size characteristics.

1 “(3) LIMITS ON USE.—The Secretary of Edu-
2 cation shall not collect on a debt under the authority
3 under this section of an individual with respect to a
4 loan that has been outstanding for more than 10
5 years.”.

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