

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing  
5 Section 11-5 as follows:

6 (755 ILCS 5/11-5) (from Ch. 110 1/2, par. 11-5)

7 Sec. 11-5. Appointment of guardian.

8 (a) Upon the filing of a petition for the appointment of a  
9 guardian or on its own motion, the court may appoint a guardian  
10 of the estate or of both the person and estate, of a minor, or  
11 may appoint a guardian of the person only of a minor or minors,  
12 as the court finds to be in the best interest of the minor or  
13 minors.

14 (a-1) A parent, adoptive parent or adjudicated parent,  
15 whose parental rights have not been terminated, may designate  
16 in any writing, including a will, a person qualified to act  
17 under Section 11-3 to be appointed as guardian of the person or  
18 estate, or both, of an unmarried minor or of a child likely to  
19 be born. A parent, adoptive parent or adjudicated parent,  
20 whose parental rights have not been terminated, or a guardian  
21 or a standby guardian of an unmarried minor or of a child  
22 likely to be born may designate in any writing, including a  
23 will, a person qualified to act under Section 11-3 to be

1 appointed as successor guardian of the minor's person or  
2 estate, or both. The designation must be witnessed by 2 or more  
3 credible witnesses at least 18 years of age, neither of whom is  
4 the person designated as the guardian. The designation may be  
5 proved by any competent evidence. If the designation is  
6 executed and attested in the same manner as a will, it shall  
7 have prima facie validity. The designation of a guardian or  
8 successor guardian does not affect the rights of the other  
9 parent in the minor.

10 (b) The court lacks jurisdiction to proceed on a petition  
11 for the appointment of a guardian of a minor if it finds that  
12 (i) the minor has a living parent, adoptive parent or  
13 adjudicated parent, whose parental rights have not been  
14 terminated, whose whereabouts are known, and who is willing  
15 and able to make and carry out day-to-day child care decisions  
16 concerning the minor, unless: (1) the parent or parents  
17 voluntarily relinquished physical custody of the minor; (2)  
18 after receiving notice of the hearing under Section 11-10.1,  
19 the parent or parents fail to object to the appointment at the  
20 hearing on the petition; (3) the parent or parents consent to  
21 the appointment as evidenced by a written document that has  
22 been notarized and dated, or by a personal appearance and  
23 consent in open court; or (4) the parent or parents, due to an  
24 administrative separation, are unable to give consent to the  
25 appointment in person or by a notarized, written document as  
26 evidenced by a sworn affidavit submitted by the petitioner

1 describing the parent's or parents' inability to receive  
2 notice or give consent; or (ii) there is a guardian for the  
3 minor appointed by a court of competent jurisdiction. There  
4 shall be a rebuttable presumption that a parent of a minor is  
5 willing and able to make and carry out day-to-day child care  
6 decisions concerning the minor, but the presumption may be  
7 rebutted by a preponderance of the evidence. If a short-term  
8 guardian has been appointed for the minor prior to the filing  
9 of the petition and the petitioner for guardianship is not the  
10 short-term guardian, there shall be a rebuttable presumption  
11 that it is in the best interest of the minor to remain in the  
12 care of the short-term guardian. The petitioner shall have the  
13 burden of proving by a preponderance of the evidence that it is  
14 not in the child's best interest to remain with the short-term  
15 guardian.

16 (b-1) If the court finds the appointment of a guardian of  
17 the minor to be in the best interest of the minor, and if a  
18 standby guardian has previously been appointed for the minor  
19 under Section 11-5.3, the court shall appoint the standby  
20 guardian as the guardian of the person or estate, or both, of  
21 the minor unless the court finds, upon good cause shown, that  
22 the appointment would no longer be in the best interest of the  
23 minor.

24 (b-2) No petition for the appointment of a guardian of a  
25 minor shall be filed if the primary purpose of the filing is to  
26 reduce the financial resources available to the minor in order

1 to cause the minor to qualify for public or private financial  
2 assistance from an educational institution. The court may deny  
3 the petition if it finds by a preponderance of the evidence  
4 that the primary purpose of the filing is to enable the minor  
5 to declare financial independence so that the minor may obtain  
6 public or private financial assistance from an educational  
7 institution or a State or federal student financial aid  
8 program.

9 (c) If the minor is 14 years of age or more, the minor may  
10 nominate the guardian of the minor's person and estate,  
11 subject to approval of the court. If the minor's nominee is not  
12 approved by the court or if, after notice to the minor, the  
13 minor fails to nominate a guardian of the minor's person or  
14 estate, the court may appoint the guardian without nomination.

15 (d) The court shall not appoint as guardian of the person  
16 of the minor any person whom the court has determined had  
17 caused or substantially contributed to the minor becoming a  
18 neglected or abused minor as defined in the Juvenile Court Act  
19 of 1987, unless 2 years have elapsed since the last proven  
20 incident of abuse or neglect and the court determines that  
21 appointment of such person as guardian is in the best  
22 interests of the minor.

23 (e) Previous statements made by the minor relating to any  
24 allegations that the minor is an abused or neglected child  
25 within the meaning of the Abused and Neglected Child Reporting  
26 Act, or an abused or neglected minor within the meaning of the

1 Juvenile Court Act of 1987, shall be admissible in evidence in  
2 a hearing concerning appointment of a guardian of the person  
3 or estate of the minor. No such statement, however, if  
4 uncorroborated and not subject to cross-examination, shall be  
5 sufficient in itself to support a finding of abuse or neglect.  
6 (Source: P.A. 101-120, eff. 7-23-19.)

7 Section 10. The Educational Planning Services Consumer  
8 Protection Act is amended by changing Sections 10, 15, 20, 25,  
9 30, 40, and 90 as follows:

10 (815 ILCS 616/10)

11 Sec. 10. Purpose and construction. The purpose of this Act  
12 is to protect consumers who enter into agreements with  
13 educational planning service providers ~~and to regulate~~  
14 ~~educational planning service providers~~. This Act shall be  
15 construed as a consumer protection law for all purposes. This  
16 Act shall be liberally construed to effectuate its purpose.  
17 (Source: P.A. 102-571, eff. 1-1-22.)

18 (815 ILCS 616/15)

19 Sec. 15. Definitions. As used in this Act:

20 "Consumer" means any person who purchases or contracts for  
21 the purchase of educational planning services.

22 "Educational planning services" means college and career  
23 preparatory planning services, including, but not limited to,

1 advice regarding and assistance with college and career  
2 searches; college application preparation or submission;  
3 financial aid application planning, preparation, or  
4 submission; and scholarship searches and applications.

5 "Educational planning service provider" means any person  
6 or entity engaging in or holding itself out as engaging in the  
7 business of providing educational planning services in  
8 exchange for any fee or compensation, or any person who  
9 solicits or acts on behalf of any person or entity engaging in  
10 or holding itself out as engaging in the business of providing  
11 educational planning services in exchange for any fee or  
12 compensation. "Educational planning service provider" does not  
13 include any of the following:

14 (1) An ~~A not for profit or public~~ institution of  
15 higher learning, as defined in the Higher Education  
16 Student Assistance Act, and the individuals employed by  
17 that institution where educational planning services are  
18 provided as part of the financial aid or career counseling  
19 services offered by the institution.

20 (2) Public entities and their officers while acting in  
21 their official capacities.

22 (3) Persons acting on behalf of a consumer under court  
23 order or as a legal representative.

24 "Enrollment fee" or "set up fee" means any fee,  
25 obligation, or compensation paid or to be paid by the consumer  
26 to an educational planning service provider in consideration

1 of or in connection with establishing a contract or other  
2 agreement with a consumer related to the provision of  
3 educational planning services.

4 "Maintenance fee" means any fee, obligation, or  
5 compensation paid or to be paid by the consumer on a periodic  
6 basis to an educational planning service provider in  
7 consideration for maintaining the relationship and services to  
8 be provided by the educational planning service provider in  
9 accordance with a contract with a consumer related to the  
10 provision of educational planning services.

11 (Source: P.A. 102-571, eff. 1-1-22.)

12 (815 ILCS 616/20)

13 Sec. 20. Prohibitions and requirements.

14 (a) It shall be unlawful for any person or entity to act as  
15 an educational planning service provider unless it remains in  
16 compliance with ~~except as authorized by~~ this Act.

17 (b) An educational planning service provider may not  
18 provide educational planning services to a consumer for a fee  
19 without a written contract signed and dated by both the  
20 consumer and the educational planning service provider. A  
21 contract between an educational planning service provider and  
22 a consumer for the provision of educational planning services  
23 shall disclose clearly and conspicuously all of the following:

24 (1) The name and address of the consumer.

25 (2) The date of execution of the contract.

1           (3) The legal name of the educational planning service  
2 provider, including any other business names used by the  
3 educational planning service provider.

4           (4) The corporate address and regular business  
5 address, including a street address, of the educational  
6 planning service provider.

7           (5) The telephone number at which the consumer may  
8 speak with a representative of the educational planning  
9 service provider during normal business hours.

10          (6) A description of the services and an itemized list  
11 of all fees to be paid by the consumer for each service and  
12 the date, approximate date, or circumstances under which  
13 each fee will become due.

14          (7) The contents of the Consumer Notice and Rights  
15 Form provided in Section 25 of this Act.

16          (8) A written notice to the consumer that the consumer  
17 may cancel the contract at any time until after the  
18 educational planning service provider has fully performed  
19 each service the educational planning service provider  
20 contracted to perform or represented he or she would  
21 perform and that the consumer may not be required to pay  
22 for services the consumer did not receive and shall be  
23 entitled to a full refund of any fees paid for educational  
24 planning services not provided.

25          (9) A form the consumer may use to cancel the contract  
26 pursuant to this Act. The form shall include the name and



1 mailing address of the educational planning service  
2 provider and shall disclose clearly and conspicuously how  
3 the consumer can cancel the contract, including applicable  
4 addresses, telephone numbers, facsimile numbers, and  
5 electronic mail addresses the consumer can use to cancel  
6 the contract. Notwithstanding any other provision of this  
7 paragraph (9) to the contrary, a consumer's lack of strict  
8 adherence to an educational planning service provider's  
9 cancellation form or processes does not invalidate a  
10 consumer's good faith and reasonable method or form of  
11 cancellation.

12 (c) If an educational planning service provider  
13 communicates with a consumer primarily in a language other  
14 than English, then the educational planning service provider  
15 shall furnish to the consumer a translation of all the  
16 disclosures and documents required by this Act, including, but  
17 not limited to, the contract, in that other language.

18 (d) An educational planning service provider may not  
19 charge or receive from a consumer any enrollment fee, set up  
20 fee, up-front fee of any kind, or maintenance fee, and a  
21 consumer shall pay only for the educational planning services  
22 provided.

23 (e) An educational planning service provider may not do  
24 any of the following:

25 (1) Represent, expressly or by implication, any  
26 results or outcomes of its educational planning services

1 in any advertising, marketing, or other communication to  
2 consumers unless the educational planning service provider  
3 possesses substantiation for such representation at the  
4 time such representation is made.

5 (2) Expressly or by implication, make any unfair or  
6 deceptive representations or any omissions of material  
7 facts in any of its advertising or marketing  
8 communications concerning educational planning services.

9 (3) Advertise or market educational planning services,  
10 enter into a contract for educational planning services,  
11 or provide educational planning services without making  
12 the disclosures required in this Act at the times and in  
13 the form and manner as described in this Act.

14 (4) Advise about or represent, expressly or by  
15 implication, any unlawful services to be provided or fees  
16 to be collected by the educational planning service  
17 provider.

18 (5) Advise or represent, expressly or by implication,  
19 that consumers pay any fees that are unearned by the  
20 educational planning service provider.

21 (6) Advise, encourage, or represent, expressly or by  
22 implication, that a consumer provide false or misleading  
23 information about financial or other circumstances to gain  
24 admission into a higher education institution or to be  
25 eligible for student financial aid, including, but not  
26 limited to, advising a consumer to petition for the

1 appointment of a guardian for a minor for the primary  
2 purpose of reducing the financial resources available to  
3 the minor in order to cause the minor to qualify for public  
4 or private financial aid.

5 (Source: P.A. 102-571, eff. 1-1-22.)

6 (815 ILCS 616/25)

7 Sec. 25. Required disclosures.

8 (a) In any marketing or advertising communications, an  
9 education planning service provider must provide the following  
10 disclosure verbatim, both orally and in writing, with the  
11 caption:

12 CONSUMER NOTICE OF AVAILABILITY

13 OF FREE ~~THESE~~ SERVICES ~~FOR FREE~~

14 General educational ~~Educational~~ planning services may  
15 be available ~~of this type are provided~~ free of charge from  
16 ~~at no cost to you by~~ the Illinois Student Assistance  
17 Commission and may also be offered by other public or  
18 not-for-profit entities, such as a public library or an  
19 institution of higher learning.

20 (b) An educational planning service provider must provide  
21 the following warning verbatim, both orally and in writing,  
22 with the caption "CONSUMER NOTICE AND RIGHTS FORM" in at least  
23 18-point ~~28-point~~ font and the remaining portion in at least

1 12-point ~~14-point~~ font, to a consumer before the consumer  
2 signs a contract for the educational planning service  
3 provider's services:

4 CONSUMER NOTICE AND RIGHTS FORM

5 AVAILABILITY OF FREE ~~THESE~~ SERVICES ~~FOR FREE~~

6 General educational ~~Educational~~ planning services may  
7 be available ~~of this type are provided~~ free of charge from  
8 ~~at no cost to you by~~ the Illinois Student Assistance  
9 Commission and may be offered by other public or  
10 not-for-profit entities, such as a public library or an  
11 institution of higher learning.

12 YOUR RIGHT TO CANCEL

13 If you sign a contract with an educational planning  
14 service provider, you have the right to cancel at any time  
15 and receive a full refund of all unearned fees you have  
16 paid to the provider. You will not be responsible for  
17 payment of services that are not fully performed.

18 IF YOU ARE DISSATISFIED OR YOU HAVE QUESTIONS

19 If you are dissatisfied with an educational planning  
20 service provider or have any questions, please bring it to  
21 the attention of the Illinois Attorney General's Office.

1 (c) The educational planning service provider must  
2 maintain proof that it has provided to the consumer the  
3 Consumer Notice and Rights Form in accordance with subsection  
4 (b) of this Section.

5 (d) The consumer shall sign and date an acknowledgment  
6 form titled "Consumer Notice and Rights Form" that states: "I,  
7 the consumer, have received from the educational planning  
8 service provider a copy of the form titled "Consumer Notice  
9 and Rights Form," and I have been provided the Illinois  
10 Student Assistance Commission's Internet website address where  
11 I can obtain general educational planning services ~~are~~  
12 ~~provided~~ free of charge.". The educational planning service  
13 provider or its representative shall also sign and date the  
14 acknowledgment form, which shall include the name and address  
15 of the educational planning service provider. The  
16 acknowledgment form shall be in duplicate and shall be  
17 incorporated into the Consumer Notice and Rights Form under  
18 subsection (b) of this Section. The original acknowledgment  
19 form shall be retained by the educational planning service  
20 provider, and the duplicate copy shall be retained by the  
21 consumer.

22 (e) If the acknowledgment form under subsection (d) of  
23 this Section is in an electronic format, then, in addition to  
24 the other requirements of this Act, the acknowledgment form  
25 shall:

26 (1) contain a live link to the Illinois Student

1 Assistance Commission's Internet website where general  
2 educational planning services may be available ~~are offered~~  
3 free of charge; and

4 (2) be digitally signed by the consumer in compliance  
5 with the provisions of the federal Electronic Signatures  
6 in Global and National Commerce Act concerning consumer  
7 disclosures, including subsection (c) of Section 101 of  
8 that Act.

9 (Source: P.A. 102-571, eff. 1-1-22.)

10 (815 ILCS 616/30)

11 Sec. 30. Cancellation of contract; refund.

12 (a) A consumer may cancel a contract with an educational  
13 planning service provider at any time before the educational  
14 planning service provider has fully performed each service the  
15 educational planning service provider contracted to perform or  
16 represented it would perform.

17 (b) If a consumer cancels a contract with an educational  
18 planning service provider, then the educational planning  
19 service provider shall refund all fees and compensation, with  
20 the exception of any earned fees for services provided.

21 (c) At any time upon a material violation of this Act on  
22 the part of the educational planning service provider, the  
23 educational planning service provider shall refund all fees  
24 and compensation to the consumer.

25 (d) An educational planning service provider shall make

1 any refund required under this Act within 5 business days  
2 after the notice of cancellation or voiding of the contract  
3 due to a violation of this Act and shall include with the  
4 refund a full statement of account showing fees received and  
5 fees refunded.

6 (e) Upon cancellation or voiding of the contract, all  
7 direct debit authorizations granted to the educational  
8 planning service provider by the consumer shall be considered  
9 revoked and voided.

10 (f) Upon the termination of the contract for any reason,  
11 the educational planning service provider shall provide a  
12 timely and accurate response to any postsecondary institution,  
13 agency, or other entity that contacts the provider in  
14 reference to the consumer, indicating that the provider ~~notice~~  
15 ~~that it~~ no longer represents the consumer ~~to any entity or~~  
16 ~~agency with whom the educational planning service provider has~~  
17 ~~had any prior communication on behalf of the consumer in~~  
18 ~~connection with the provision of any educational planning~~  
19 ~~services.~~

20 (Source: P.A. 102-571, eff. 1-1-22.)

21 (815 ILCS 616/40)

22 Sec. 40. Civil remedies; injunction.

23 (a) A material violation of this Act constitutes an  
24 unlawful practice under the Consumer Fraud and Deceptive  
25 Business Practices Act. All remedies, penalties, and authority

1 granted to the Attorney General or State's Attorney by the  
2 Consumer Fraud and Deceptive Business Practices Act shall be  
3 available to him or her for the enforcement of this Act.

4 (b) A consumer who suffers loss by reason of a material  
5 violation of this Act may bring a civil action in accordance  
6 with the Consumer Fraud and Deceptive Business Practices Act  
7 to enforce a provision of this Act. All remedies and rights  
8 granted to a consumer by the Consumer Fraud and Deceptive  
9 Business Practices Act shall be available to the consumer  
10 bringing such an action. The remedies and rights provided for  
11 in this Act are not exclusive, but cumulative, and all other  
12 applicable claims are specifically preserved.

13 (c) Any contract for educational planning services made in  
14 material violation of this Act shall be null and void and of no  
15 legal effect.

16 (d) To engage in educational planning services in  
17 violation of this Act is declared to be inimical to the public  
18 welfare and to constitute a public nuisance. The Illinois  
19 Student Assistance Commission may, in the name of the people  
20 of the State of Illinois, through the Attorney General, file a  
21 complaint for an injunction in the circuit court to enjoin  
22 such person from engaging in that unlawful business. An  
23 injunction proceeding shall be in addition to and not in lieu  
24 of penalties and remedies otherwise provided in this Act.

25 (Source: P.A. 102-571, eff. 1-1-22.)



1 (815 ILCS 616/90)

2 Sec. 90. Rules. The Illinois Student Assistance Commission  
3 shall adopt ~~and enforce all~~ reasonable rules necessary or  
4 appropriate for the administration of this Act.

5 (Source: P.A. 102-571, eff. 1-1-22.)