



Rep. Jennifer Gong-Gershowitz

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1 AMENDMENT TO SENATE BILL 195

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 195 by replacing  
3 everything after the enacting clause with the following:

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

1 under Section 11-3 to be appointed as guardian of the person or  
2 estate, or both, of an unmarried minor or of a child likely to  
3 be born. A parent, adoptive parent or adjudicated parent,  
4 whose parental rights have not been terminated, or a guardian  
5 or a standby guardian of an unmarried minor or of a child  
6 likely to be born may designate in any writing, including a  
7 will, a person qualified to act under Section 11-3 to be  
8 appointed as successor guardian of the minor's person or  
9 estate, or both. The designation must be witnessed by 2 or more  
10 credible witnesses at least 18 years of age, neither of whom is  
11 the person designated as the guardian. The designation may be  
12 proved by any competent evidence. If the designation is  
13 executed and attested in the same manner as a will, it shall  
14 have prima facie validity. The designation of a guardian or  
15 successor guardian does not affect the rights of the other  
16 parent in the minor.

17 (b) The court lacks jurisdiction to proceed on a petition  
18 for the appointment of a guardian of a minor if it finds that  
19 (i) the minor has a living parent, adoptive parent or  
20 adjudicated parent, whose parental rights have not been  
21 terminated, whose whereabouts are known, and who is willing  
22 and able to make and carry out day-to-day child care decisions  
23 concerning the minor, unless: (1) the parent or parents  
24 voluntarily relinquished physical custody of the minor; (2)  
25 after receiving notice of the hearing under Section 11-10.1,  
26 the parent or parents fail to object to the appointment at the

1 hearing on the petition; (3) the parent or parents consent to  
2 the appointment as evidenced by a written document that has  
3 been notarized and dated, or by a personal appearance and  
4 consent in open court; or (4) the parent or parents, due to an  
5 administrative separation, are unable to give consent to the  
6 appointment in person or by a notarized, written document as  
7 evidenced by a sworn affidavit submitted by the petitioner  
8 describing the parent's or parents' inability to receive  
9 notice or give consent; or (ii) there is a guardian for the  
10 minor appointed by a court of competent jurisdiction. There  
11 shall be a rebuttable presumption that a parent of a minor is  
12 willing and able to make and carry out day-to-day child care  
13 decisions concerning the minor, but the presumption may be  
14 rebutted by a preponderance of the evidence. If a short-term  
15 guardian has been appointed for the minor prior to the filing  
16 of the petition and the petitioner for guardianship is not the  
17 short-term guardian, there shall be a rebuttable presumption  
18 that it is in the best interest of the minor to remain in the  
19 care of the short-term guardian. The petitioner shall have the  
20 burden of proving by a preponderance of the evidence that it is  
21 not in the child's best interest to remain with the short-term  
22 guardian.

23 (b-1) If the court finds the appointment of a guardian of  
24 the minor to be in the best interest of the minor, and if a  
25 standby guardian has previously been appointed for the minor  
26 under Section 11-5.3, the court shall appoint the standby

1 guardian as the guardian of the person or estate, or both, of  
2 the minor unless the court finds, upon good cause shown, that  
3 the appointment would no longer be in the best interest of the  
4 minor.

5 (b-2) No petition for the appointment of a guardian of a  
6 minor shall be filed if the primary purpose of the filing is to  
7 reduce the financial resources available to the minor in order  
8 to cause the minor to qualify for public or private financial  
9 assistance from an educational institution. The court may deny  
10 the petition if it finds by a preponderance of the evidence  
11 that the primary purpose of the filing is to enable the minor  
12 to declare financial independence so that the minor may obtain  
13 public or private financial assistance from an educational  
14 institution or a State or federal student financial aid  
15 program.

16 (c) If the minor is 14 years of age or more, the minor may  
17 nominate the guardian of the minor's person and estate,  
18 subject to approval of the court. If the minor's nominee is not  
19 approved by the court or if, after notice to the minor, the  
20 minor fails to nominate a guardian of the minor's person or  
21 estate, the court may appoint the guardian without nomination.

22 (d) The court shall not appoint as guardian of the person  
23 of the minor any person whom the court has determined had  
24 caused or substantially contributed to the minor becoming a  
25 neglected or abused minor as defined in the Juvenile Court Act  
26 of 1987, unless 2 years have elapsed since the last proven

1 incident of abuse or neglect and the court determines that  
2 appointment of such person as guardian is in the best  
3 interests of the minor.

4 (e) Previous statements made by the minor relating to any  
5 allegations that the minor is an abused or neglected child  
6 within the meaning of the Abused and Neglected Child Reporting  
7 Act, or an abused or neglected minor within the meaning of the  
8 Juvenile Court Act of 1987, shall be admissible in evidence in  
9 a hearing concerning appointment of a guardian of the person  
10 or estate of the minor. No such statement, however, if  
11 uncorroborated and not subject to cross-examination, shall be  
12 sufficient in itself to support a finding of abuse or neglect.  
13 (Source: P.A. 101-120, eff. 7-23-19.)

14 Section 10. The Educational Planning Services Consumer  
15 Protection Act is amended by changing Sections 10, 15, 20, 25,  
16 30, 40, and 90 as follows:

17 (815 ILCS 616/10)

18 Sec. 10. Purpose and construction. The purpose of this Act  
19 is to protect consumers who enter into agreements with  
20 educational planning service providers ~~and to regulate~~  
21 ~~educational planning service providers~~. This Act shall be  
22 construed as a consumer protection law for all purposes. This  
23 Act shall be liberally construed to effectuate its purpose.

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

1 (815 ILCS 616/15)

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

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

5 "Educational planning services" means college and career  
6 preparatory planning services, including, but not limited to,  
7 advice regarding and assistance with college and career  
8 searches; college application preparation or submission;  
9 financial aid application planning, preparation, or  
10 submission; and scholarship searches and applications.

11 "Educational planning service provider" means any person  
12 or entity engaging in or holding itself out as engaging in the  
13 business of providing educational planning services in  
14 exchange for any fee or compensation, or any person who  
15 solicits or acts on behalf of any person or entity engaging in  
16 or holding itself out as engaging in the business of providing  
17 educational planning services in exchange for any fee or  
18 compensation. "Educational planning service provider" does not  
19 include any of the following:

20 (1) An ~~A not-for-profit or public~~ institution of  
21 higher learning, as defined in the Higher Education  
22 Student Assistance Act, and the individuals employed by  
23 that institution where educational planning services are  
24 provided as part of the financial aid or career counseling  
25 services offered by the institution.

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

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

5           "Enrollment fee" or "set up fee" means any fee,  
6           obligation, or compensation paid or to be paid by the consumer  
7           to an educational planning service provider in consideration  
8           of or in connection with establishing a contract or other  
9           agreement with a consumer related to the provision of  
10          educational planning services.

11          "Maintenance fee" means any fee, obligation, or  
12          compensation paid or to be paid by the consumer on a periodic  
13          basis to an educational planning service provider in  
14          consideration for maintaining the relationship and services to  
15          be provided by the educational planning service provider in  
16          accordance with a contract with a consumer related to the  
17          provision of educational planning services.

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

19           (815 ILCS 616/20)

20          Sec. 20. Prohibitions and requirements.

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

24          (b) An educational planning service provider may not  
25          provide educational planning services to a consumer for a fee

1 without a written contract signed and dated by both the  
2 consumer and the educational planning service provider. A  
3 contract between an educational planning service provider and  
4 a consumer for the provision of educational planning services  
5 shall disclose clearly and conspicuously all of the following:

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

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

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

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

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

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

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

23 (8) A written notice to the consumer that the consumer  
24 may cancel the contract at any time until after the  
25 educational planning service provider has fully performed  
26 each service the educational planning service provider



1           contracted to perform or represented he or she would  
2           perform and that the consumer may not be required to pay  
3           for services the consumer did not receive and shall be  
4           entitled to a full refund of any fees paid for educational  
5           planning services not provided.

6           (9) A form the consumer may use to cancel the contract  
7           pursuant to this Act. The form shall include the name and  
8           mailing address of the educational planning service  
9           provider and shall disclose clearly and conspicuously how  
10          the consumer can cancel the contract, including applicable  
11          addresses, telephone numbers, facsimile numbers, and  
12          electronic mail addresses the consumer can use to cancel  
13          the contract. Notwithstanding any other provision of this  
14          paragraph (9) to the contrary, a consumer's lack of strict  
15          adherence to an educational planning service provider's  
16          cancellation form or processes does not invalidate a  
17          consumer's good faith and reasonable method or form of  
18          cancellation.

19          (c) If an educational planning service provider  
20          communicates with a consumer primarily in a language other  
21          than English, then the educational planning service provider  
22          shall furnish to the consumer a translation of all the  
23          disclosures and documents required by this Act, including, but  
24          not limited to, the contract, in that other language.

25          (d) An educational planning service provider may not  
26          charge or receive from a consumer any enrollment fee, set up

1 fee, up-front fee of any kind, or maintenance fee, and a  
2 consumer shall pay only for the educational planning services  
3 provided.

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

6 (1) Represent, expressly or by implication, any  
7 results or outcomes of its educational planning services  
8 in any advertising, marketing, or other communication to  
9 consumers unless the educational planning service provider  
10 possesses substantiation for such representation at the  
11 time such representation is made.

12 (2) Expressly or by implication, make any unfair or  
13 deceptive representations or any omissions of material  
14 facts in any of its advertising or marketing  
15 communications concerning educational planning services.

16 (3) Advertise or market educational planning services,  
17 enter into a contract for educational planning services,  
18 or provide educational planning services without making  
19 the disclosures required in this Act at the times and in  
20 the form and manner as described in this Act.

21 (4) Advise about or represent, expressly or by  
22 implication, any unlawful services to be provided or fees  
23 to be collected by the educational planning service  
24 provider.

25 (5) Advise or represent, expressly or by implication,  
26 that consumers pay any fees that are unearned by the

1 educational planning service provider.

2 (6) Advise, encourage, or represent, expressly or by  
3 implication, that a consumer provide false or misleading  
4 information about financial or other circumstances to gain  
5 admission into a higher education institution or to be  
6 eligible for student financial aid, including, but not  
7 limited to, advising a consumer to petition for the  
8 appointment of a guardian for a minor for the primary  
9 purpose of reducing the financial resources available to  
10 the minor in order to cause the minor to qualify for public  
11 or private financial aid.

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

13 (815 ILCS 616/25)

14 Sec. 25. Required disclosures.

15 (a) In any marketing or advertising communications, an  
16 education planning service provider must provide the following  
17 disclosure verbatim, both orally and in writing, with the  
18 caption:

19 CONSUMER NOTICE OF AVAILABILITY

20 OF FREE ~~THESE~~ SERVICES ~~FOR FREE~~

21 General educational ~~Educational~~ planning services may  
22 be available ~~of this type are provided~~ free of charge from  
23 ~~at no cost to you by~~ the Illinois Student Assistance  
24 Commission and may also be offered by other public or

1 not-for-profit entities, such as a public library or an  
2 institution of higher learning.

3 (b) An educational planning service provider must provide  
4 the following warning verbatim, both orally and in writing,  
5 with the caption "CONSUMER NOTICE AND RIGHTS FORM" in at least  
6 18-point ~~28-point~~ font and the remaining portion in at least  
7 12-point ~~14-point~~ font, to a consumer before the consumer  
8 signs a contract for the educational planning service  
9 provider's services:

10 CONSUMER NOTICE AND RIGHTS FORM

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

18 YOUR RIGHT TO CANCEL

19 If you sign a contract with an educational planning  
20 service provider, you have the right to cancel at any time  
21 and receive a full refund of all unearned fees you have  
22 paid to the provider. You will not be responsible for

1 payment of services that are not fully performed.

2 IF YOU ARE DISSATISFIED OR YOU HAVE QUESTIONS

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

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

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

1 provider, and the duplicate copy shall be retained by the  
2 consumer.

3 (e) If the acknowledgment form under subsection (d) of  
4 this Section is in an electronic format, then, in addition to  
5 the other requirements of this Act, the acknowledgment form  
6 shall:

7 (1) contain a live link to the Illinois Student  
8 Assistance Commission's Internet website where general  
9 educational planning services may be available ~~are offered~~  
10 free of charge; and

11 (2) be digitally signed by the consumer in compliance  
12 with the provisions of the federal Electronic Signatures  
13 in Global and National Commerce Act concerning consumer  
14 disclosures, including subsection (c) of Section 101 of  
15 that Act.

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

17 (815 ILCS 616/30)

18 Sec. 30. Cancellation of contract; refund.

19 (a) A consumer may cancel a contract with an educational  
20 planning service provider at any time before the educational  
21 planning service provider has fully performed each service the  
22 educational planning service provider contracted to perform or  
23 represented it would perform.

24 (b) If a consumer cancels a contract with an educational  
25 planning service provider, then the educational planning

1 service provider shall refund all fees and compensation, with  
2 the exception of any earned fees for services provided.

3 (c) At any time upon a material violation of this Act on  
4 the part of the educational planning service provider, the  
5 educational planning service provider shall refund all fees  
6 and compensation to the consumer.

7 (d) An educational planning service provider shall make  
8 any refund required under this Act within 5 business days  
9 after the notice of cancellation or voiding of the contract  
10 due to a violation of this Act and shall include with the  
11 refund a full statement of account showing fees received and  
12 fees refunded.

13 (e) Upon cancellation or voiding of the contract, all  
14 direct debit authorizations granted to the educational  
15 planning service provider by the consumer shall be considered  
16 revoked and voided.

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

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

2 (815 ILCS 616/40)

3 Sec. 40. Civil remedies; injunction.

4 (a) A material violation of this Act constitutes an  
5 unlawful practice under the Consumer Fraud and Deceptive  
6 Business Practices Act. All remedies, penalties, and authority  
7 granted to the Attorney General or State's Attorney by the  
8 Consumer Fraud and Deceptive Business Practices Act shall be  
9 available to him or her for the enforcement of this Act.

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

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

22 (d) To engage in educational planning services in  
23 violation of this Act is declared to be inimical to the public  
24 welfare and to constitute a public nuisance. The Illinois  
25 Student Assistance Commission may, in the name of the people



1 of the State of Illinois, through the Attorney General, file a  
2 complaint for an injunction in the circuit court to enjoin  
3 such person from engaging in that unlawful business. An  
4 injunction proceeding shall be in addition to and not in lieu  
5 of penalties and remedies otherwise provided in this Act.

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

7 (815 ILCS 616/90)

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

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