



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0148

Introduced 1/31/2007, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

705 ILCS 205/1

from Ch. 13, par. 1

Amends the Attorney Act. Provides that a person engaging in the unauthorized practice of law is subject to a court order that includes, but which is not limited to: equitable relief; a civil penalty not to exceed \$5,000; actual damages; attorney's fees and costs attributable to the action in which the order was entered; punitive damages if the conduct was wilful, intentional, or done with a reckless disregard for the rights of others; and other relief necessary to remedy the person's wrongdoing (at present, the prohibited conduct is to be "punished accordingly"). Provides that the civil penalties collected shall be paid to the Illinois Equal Justice Foundation.

LRB095 05135 AJO 25206 b

1 AN ACT concerning courts.

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

4 Section 5. The Attorney Act is amended by changing Section
5 1 as follows:

6 (705 ILCS 205/1) (from Ch. 13, par. 1)

7 Sec. 1. No person shall be permitted to practice as an
8 attorney or counselor at law within this State without having
9 previously obtained a license for that purpose from the Supreme
10 Court of this State.

11 No person shall receive any compensation directly or
12 indirectly for any legal services other than a regularly
13 licensed attorney, nor may an unlicensed person advertise or
14 hold himself or herself out to provide legal services.

15 A license, as provided for herein, constitutes the person
16 receiving the same an attorney and counselor at law, according
17 to the law and customs thereof, for and during his good
18 behavior in the practice and authorizes him to demand and
19 receive fees for any services which he may render as an
20 attorney and counselor at law in this State. No person shall be
21 granted a license or renewal authorized by this Act who has
22 defaulted on an educational loan guaranteed by the Illinois
23 Student Assistance Commission; however, a license or renewal

1 may be issued to the aforementioned persons who have
2 established a satisfactory repayment record as determined by
3 the Illinois Student Assistance Commission. No person shall be
4 granted a license or renewal authorized by this Act who is more
5 than 30 days delinquent in complying with a child support
6 order; a license or renewal may be issued, however, if the
7 person has established a satisfactory repayment record as
8 determined (i) by the Department of Healthcare and Family
9 Services (formerly Illinois Department of Public Aid) for cases
10 being enforced under Article X of the Illinois Public Aid Code
11 or (ii) in all other cases by order of court or by written
12 agreement between the custodial parent and non-custodial
13 parent. No person shall be refused a license under this Act on
14 account of sex.

15 Any person practicing, charging or receiving fees for legal
16 services or advertising or holding himself or herself out to
17 provide legal services within this State, either directly or
18 indirectly, without being licensed to practice as herein
19 required, is guilty of contempt of court and shall be punished
20 accordingly, upon complaint being filed in any Circuit Court of
21 this State. The remedies available include, but are not limited
22 to: (i) appropriate equitable relief; (ii) a civil penalty not
23 to exceed \$5,000; (iii) actual damages; (iv) reasonable
24 attorney's fees and costs attributable to the prosecution of
25 the action; (v) punitive damages if the conduct was willful,
26 intentional, or done with reckless disregard for the rights of

1 others; and (vi) other relief deemed necessary to remedy the
2 wrongdoing. Such proceedings shall be conducted in the Courts
3 of the respective counties where the alleged contempt has been
4 committed in the same manner as in cases of indirect contempt
5 and with the right of review by the parties thereto. All civil
6 penalties shall be paid to the Illinois Equal Justice
7 Foundation.

8 The provisions of this Act shall be in addition to other
9 remedies permitted by law and shall not be construed to deprive
10 courts of this State of their inherent right to punish for
11 contempt or to restrain the unauthorized practice of law.

12 Nothing in this Act shall be construed to conflict with,
13 amend, or modify Section 5 of the Corporation Practice of Law
14 Prohibition Act or prohibit representation of a party by a
15 person who is not an attorney in a proceeding before either
16 panel of the Illinois Labor Relations Board under the Illinois
17 Public Labor Relations Act, as now or hereafter amended, the
18 Illinois Educational Labor Relations Board under the Illinois
19 Educational Labor Relations Act, as now or hereafter amended,
20 the State Civil Service Commission, the local Civil Service
21 Commissions, or the University Civil Service Merit Board, to
22 the extent allowed pursuant to rules and regulations
23 promulgated by those Boards and Commissions or the giving of
24 information, training, or advocacy or assistance in any
25 meetings or administrative proceedings held pursuant to the
26 federal Individuals with Disabilities Education Act, the

1 federal Rehabilitation Act of 1973, the federal Americans with
2 Disabilities Act of 1990, or the federal Social Security Act,
3 to the extent allowed by those laws or the federal regulations
4 or State statutes implementing those laws.

5 (Source: P.A. 94-659, eff. 1-1-06; revised 12-15-05.)