

1 AN ACT concerning veterans.

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

4 Section 1. Short title; references to Act.

5 (a) Short title. This Act may be cited as the  
6 Servicemember Education Rights Veneration Act.

7 (b) References to Act. This Act may be referred to as the  
8 SERVE Act.

9 ARTICLE 1. GENERAL PROVISIONS

10 Section 1-5. Legislative intent. As a guide to the  
11 interpretation and application of this Act, the public policy  
12 of the State is declared as follows:

13 (a) The General Assembly recognizes the common public  
14 interest in safeguarding and promoting participation in  
15 military service to the United States and the State by:

16 (1) minimizing disadvantages to military service while  
17 pursuing higher education;

18 (2) providing prompt readmission and preservation of  
19 academic status for service member students returning from  
20 military service in a manner that (A) minimizes disruption  
21 to academic pursuits and (B) limits institutional legal  
22 risk associated with developing and granting

1 accommodations; and

2 (3) prohibiting discrimination against and  
3 interference with military service.

4 (b) This law shall be interpreted as comprising a  
5 foundation of protections guaranteed by this Act; therefore,  
6 nothing in this Act shall supersede, nullify, or diminish any  
7 federal or State law, including any local law or ordinance,  
8 contract, agreement, policy, plan, practice, or other matter  
9 that establishes a right or benefit that is more beneficial  
10 to, or is in addition to, a right or benefit provided in this  
11 Act.

12 (c) This Act shall be liberally construed to effectuate  
13 its purposes and provisions for the benefit of the service  
14 member student who has volunteered to serve this country and  
15 this State despite the risk of interruption in the pursuit of  
16 higher education. Such sacrifice benefits everyone but is made  
17 by relatively few.

18 (d) This Act requires institutions of higher education to  
19 think beyond their existing policy and practice to act in  
20 practical ways that better accommodate service member students  
21 whose participation in military service presents individually  
22 unique and complicated challenges.

23 (e) The new service member benefits provided under this  
24 Act apply on and after the effective date of this Act.

25 Section 1-10. Definitions. As used in this Act:

1 "Academic military leave" means any period of leave of  
2 absence by a service member student to perform military  
3 service.

4 "Academic status" means a service member student's  
5 academic position in an institution of higher education in  
6 terms of academic program, enrollment status, credit or clock  
7 hours completed, academic standing, and academic progress.

8 "Academic program" means a set of academic requirements  
9 that lead to a degree, diploma, certificate, or any other such  
10 credential.

11 "Academic progress" means the degree to which a service  
12 member student is on track to graduate on time and is meeting  
13 the institution's academic standards for satisfactory  
14 completion of an academic program.

15 "Academic standing" means grade point average.

16 "Academic year division" means the method in which an  
17 institution divides the academic year, including semester,  
18 quarter, trimester, 4-1-4 system, 4-4-1 system, continuous or  
19 year-round, block, 3-term system, or any other such method of  
20 determining the division of an academic year.

21 "Accommodation" means a mutually agreed upon modification  
22 between a service member student and the institution to  
23 academic coursework that creates an opportunity for a service  
24 member student to avoid negative impact on academic status  
25 because of academic military leave. "Accommodation" includes,  
26 but is not limited to, make-up work, flexible deadlines,

1 alternative assignments, make-up exams, accessing missed  
2 lecture materials, remote participation, extended time for  
3 tasks, course adjustments, and opportunities to complete  
4 assignments, tasks, exams, and other course requirements  
5 earlier than their respective due dates.

6 "Appropriate military authority" means any commissioned,  
7 warrant, or noncommissioned officer authorized to issue orders  
8 for military service in the Armed Forces of the United States  
9 or the National Guard of any state or territory.

10 "Discrimination" means any unjust or prejudicial  
11 treatment, including, but not limited to, harassment, based on  
12 perceived or actual association or affiliation with military  
13 service.

14 "Enrollment status" means whether a service member student  
15 is full-time, part-time, half-time, withdrawn, degree-seeking,  
16 non-degree seeking, a graduate, on leave, or any other such  
17 matriculation relationship to the institution or program.

18 "Financial aid" means any moneys, including, but not  
19 limited to, grants, scholarships, work-study, and loans,  
20 provided to help service member students in remunerating an  
21 institution of higher education. It includes veterans'  
22 education benefits such as those provided under the  
23 Servicemen's Readjustment Act of 1944 and the Illinois Veteran  
24 grant program under the Higher Education Student Assistance  
25 Act.

26 "Institution" or "institution of higher education" means a

1 public or private college, university, or other institution  
2 that provides postsecondary education and awards degrees,  
3 diplomas, certificates, or other such credential.

4 "ISERRA Advocate" means the Illinois Service Member  
5 Employment and Reemployment Rights Act Advocate appointed by  
6 the Attorney General under Section 30-5 of the Service Member  
7 Employment and Reemployment Rights Act.

8 "Military accommodation" means specific accommodation  
9 granted by, and at the sole discretion of, appropriate  
10 military authority with respect to a service member student.  
11 It may be requested by the service member student or an  
12 institution and relates to the timing, frequency, and duration  
13 of impending academic military leave with the sole purpose to  
14 prevent or limit negative impact on a service member student's  
15 academic status.

16 "Military service" means a service member student receives  
17 orders in the Armed Forces of the United States, the National  
18 Guard of any state or territory regardless of status or  
19 voluntariness, or the Illinois State Guard as described in the  
20 State Guard Act. "Military service" includes service under the  
21 authority of U.S.C. Titles 10, 14, or 32, or state active duty.  
22 "Military service" includes active and inactive duty.

23 "Reasonable efforts" means actions taken to accommodate  
24 service member students due to academic military leave, but  
25 does not require significant difficulty, or expense on the  
26 operation of the institution of higher education or on

1 education standards.

2 "Service member student" means a person enrolled in an  
3 institution of higher education who is eligible to be ordered  
4 to military service, or in the case of such person's spouse,  
5 whose pursuit of higher education is adversely impacted by  
6 such service.

7 "Volunteer orders" means reserve component voluntary  
8 active service as that term is defined in Section 1-10 of the  
9 Service Member Employment and Reemployment Rights Act.

10 Section 1-15. Applicability. This Act applies when  
11 military duty presents a conflict with academic status. This  
12 Act is not meant as a substitute for poor planning on the part  
13 of the service member student. This Act does not apply where  
14 there is no conflict between institutional and military  
15 service requirements. Nothing in this Act prohibits an  
16 institution from acting consistently with established policy  
17 and procedure for dealing with misconduct on the part of a  
18 service member student.

19 ARTICLE 5. ACCOMMODATION AND READMISSION REQUIREMENTS

20 Section 5-5. Readmission.

21 (a) Institutions shall accommodate service member  
22 student's academic military leave and grant prompt readmission  
23 when the service member student:

1           (1) has not exceeded a cumulative academic military  
2           leave period beyond 5 years;

3           (2) provides advance notice of academic military leave  
4           to the institution; and

5           (3) provides notice of intent to return to the  
6           institution.

7           (b) Prompt readmission. The institution must readmit a  
8           service member student on academic military leave into the  
9           next class, classes, or academic year division following the  
10          receipt of the notice of intent to return in accordance with  
11          the terms of the accommodation.

12          (c) Exemptions to readmission. A service member student's  
13          eligibility for readmission under this Act terminates upon the  
14          occurrence of any of the following events:

15                 (1) A separation of such service member student from  
16                 military service with a dishonorable or bad conduct  
17                 discharge.

18                 (2) A dismissal from military service in the case of a  
19                 service member student who is a commissioned or warrant  
20                 officer.

21                 (3) A dropping of such service member student from the  
22                 rolls.

23           (d) The service member student has an obligation to timely  
24           self-report to the institution when any of the exemptions to  
25           readmission listed in subsection (c) occur.

26           (e) A service member student shall provide documentation

1 demonstrating applicability of exemptions upon request by the  
2 institution, subject to the following:

3 (1) The institution cannot request specific  
4 documentation.

5 (2) Documentation provided shall be from appropriate  
6 military authority.

7 (3) Documentation shall be provided as soon as  
8 practicable.

9 (f) Rights and benefits under this Act shall not be  
10 withheld until an exemption becomes evident.

11 (g) Loss of readmission rights under this Act subjects the  
12 service member student to the institution's applicable  
13 policies and procedures.

14 (h) When an institution has reason to believe that an  
15 exemption may be applicable but is not reported, the  
16 institution shall notify the Attorney General's ISERRA  
17 Advocate. Upon receiving notification, the Attorney General  
18 shall investigate to determine if an exemption exists.  
19 Intentional failure to timely report an applicable exemption  
20 shall result in loss of readmission and preservation of  
21 academic status rights under this Act and subjects the service  
22 member student to the institution's applicable policies and  
23 procedures. When failure to report involves the use of public  
24 funds, the Attorney General shall investigate to determine if  
25 any law has been violated and if recoupment of public funds is  
26 warranted. Results of any investigation may be shared with

1 appropriate military authority at the discretion of the  
2 Attorney General.

3 Section 5-10. Academic military leave.

4 (a) Permission. A service member student is not required  
5 to get permission from his or her institution for academic  
6 military leave. The service member student is only required to  
7 provide advance notice of pending military service in  
8 accordance with this Act. Advance notice entitles a service  
9 member student to academic military leave.

10 (b) Conditions. An institution of higher education may not  
11 impose conditions for academic military leave not otherwise  
12 imposed under this Act or other applicable law.

13 (1) This subsection shall not be construed to prevent  
14 an institution from providing conditions as part of  
15 academic accommodation.

16 (2) This subsection shall not be construed to prevent  
17 an institution from establishing reasonable policies,  
18 procedures, and practice in furtherance of this Act.

19 (c) Military accommodation. A service member student is  
20 not required to accommodate an institution's needs as to the  
21 timing, frequency, or duration of academic military leave;  
22 however, institutions are permitted and encouraged to request  
23 accommodations that benefit the service member student in  
24 advance of such academic military leave, subject to the  
25 following:

1           (1) Such requests shall be in collaboration with and  
2           in the best interest of service member students.

3           (2) Such requests shall be directed to the attention  
4           of the appropriate military authority.

5           (3) The accommodation of such requests is subject to  
6           military law and discretion.

7           (d) Academic obligation not excused. Academic military  
8           leave alone does not excuse a service member student from any  
9           academic obligation except at the sole discretion of the  
10          institution as part of an accommodation.

11          Section 5-15. Accommodation.

12          (a) Notice of pending academic military leave entitles  
13          service member students to institutional accommodation.

14          (b) Accommodations. Accommodation made by an institution  
15          of higher education under this Act is subject to the  
16          following:

17                 (1) Shall become a mutually agreed upon contract  
18                 conditioned on tasks that both sides must complete to  
19                 fulfill the agreement.

20                 (2) Shall be in writing such as in an email, letter, or  
21                 some other written form.

22                 (3) Shall not violate any law prohibiting  
23                 discrimination.

24                 (4) Shall not violate any rights granted by this Act  
25                 or other law.

1           (5) Shall be created with the purpose of compliance  
2 with this Act.

3           (6) Shall benefit the service member student.

4           (7) Shall be tailored to the unique academic status,  
5 military requirements, and circumstantial constraints  
6 specific to each service member student who finds himself  
7 or herself in a position warranting accommodation.

8           (8) Shall be amendable when a material condition  
9 changes or upon agreement by the institution and the  
10 service member student.

11           (9) Shall present a reasonable opportunity for the  
12 service member student to maintain academic status as  
13 follows:

14           (A) Readmission into the same academic program is  
15 subject to the following:

16           (i) If the specific academic program is no  
17 longer offered but the coursework can be  
18 completed, then the service member student shall  
19 be given the opportunity to complete the  
20 coursework for that academic program.

21           (ii) If the coursework is not available, then  
22 the service member student shall be admitted into  
23 the academic program that is most similar to his  
24 or her original academic program.

25           (B) Readmission to the same academic enrollment  
26 status.

1           (C) Readmission with the same number of credit  
2 hours or clock hours unless the service member student  
3 is readmitted to a different academic program to which  
4 the completed credit hours or clock hours are not  
5 transferable.

6           (D) Readmission with the same academic standing  
7 subject to changes in grade point average resulting  
8 from any accommodation.

9           (E) Readmission with the same academic progress.

10          (10) The specifics of and nature of any accommodation  
11 shall be at the sole discretion of the institution of  
12 higher education under consultation with the service  
13 member student.

14          (11) Shall be reasonable under the circumstances.

15          (12) Shall not require, plan, or depend on the  
16 performance of coursework during academic military leave  
17 subject to the provision that nothing in this subsection  
18 prevents a service member student from performing  
19 coursework during academic military leave on the service  
20 member student's own initiative.

21          (c) Accommodations shall not create a broad rule, policy,  
22 or practice applicable beyond the terms of the specific  
23 accommodation applicable to a specific service member student,  
24 except at the sole discretion of the institution of higher  
25 education.

26          (d) Reimbursement. All expenses, including, but not

1 limited to, tuition, fees, and penalties, charged by the  
2 institution are fully refundable for any academic year  
3 division the institution determines that withdrawal, due to  
4 military service, is the only appropriate accommodation based  
5 on the characteristics of the academic military leave in  
6 question subject to the following:

7 (1) Financial aid. Financial aid shall be credited for  
8 the academic year division requiring withdrawal due to  
9 military service, unless expressly prohibited by the terms  
10 of such financial aid and impossible or unreasonable under  
11 the circumstances.

12 (2) Scholarship, grant, or loan. A service member  
13 student's eligibility for a State-supported scholarship,  
14 grant, or loan for attendance at an institution shall not  
15 be adversely affected by the service member student's  
16 failure to complete coursework because of the service  
17 member student's military service.

18 (3) Housing. The service member student may be charged  
19 for any period in which student housing is occupied by the  
20 service member student and subject to the federal  
21 Servicemembers Civil Relief Act (50 U.S.C. 3900 et seq.).

22 (4) Textbooks. If a service member student must  
23 withdraw from any course due to military service, the  
24 service member student shall receive the maximum price,  
25 based on condition, for textbooks purchased from the  
26 bookstore associated with the institution.

1           (5) All other expenses. All other expenses charged by  
2           the institution and in which the service member student  
3           has used or taken advantage of shall be reimbursed pro  
4           rata. If determining the pro rata share is not possible,  
5           then the service member student shall be reimbursed the  
6           full amount.

7           (e) Withdrawal due to military service. A service member  
8           student who is unable to continue in a course due to military  
9           service shall be allowed to withdraw with no impact upon the  
10          final grade point average of the service member student. Such  
11          withdrawal shall be identified on any academic transcript as  
12          "withdrawal due to military service" so as not to prejudice  
13          the service member student. If the service member student is  
14          required to withdraw, such withdrawal shall not disadvantage  
15          the service member student as to readmission or re-enrollment.

16          (f) Academic military leave does not count toward any  
17          limit on attendance.

18          (g) Mutual accommodation. Any requirement of academic  
19          status is deemed met if the service member student requests  
20          and the institution grants a different academic program,  
21          enrollment status, credit or clock hours, or academic  
22          progress. Such accommodation shall not be recognized if made  
23          in lieu of the service member student's preferred benefit  
24          under law, policy, practice, or agreement.

25          (h) Re-enrollment not possible. If the institution  
26          determines that the service member student is not prepared to

1 resume in the same academic status as required in this Act due  
2 to standards outside their control, the institution must make  
3 reasonable efforts to help the service member student become  
4 prepared to resume in the same academic status, including, but  
5 not limited to, providing refresher courses, refresher  
6 training, and an opportunity to retake any examination. Such  
7 efforts shall be at no extra cost to service member students.  
8 If, after reasonable efforts on the part of the institution,  
9 the service member student is unable to resume in the same  
10 academic status, then the obligation to readmit the service  
11 member student in the same academic status is deemed to have  
12 been met.

13 (i) Rejection of accommodation. Rejection of accommodation  
14 that meets the requirements of this Act by a service member  
15 student shall subject the service member student to the  
16 institution's applicable policies and procedures. Good faith  
17 negotiations on the part of the service member student or  
18 representative do not constitute rejection of the  
19 accommodation.

20 (j) Burden of proof. The institution of higher education  
21 carries the burden to show, by a preponderance of the  
22 evidence, that:

23 (1) the service member student is re-enrolled in the  
24 same or most similar academic program and status;

25 (2) reasonable efforts have been made to prepare the  
26 service member student to resume in the same or most

1 similar academic program and status;

2 (3) reasonable efforts made have failed through no  
3 fault of the institution; and

4 (4) no other reasonable efforts are available to the  
5 institution.

6 Section 5-20. Five-year limit.

7 (a) Five-year limit. In computing the 5-year limit, the  
8 academic military leave shall not include any of the following  
9 military service:

10 (1) service that is required, beyond 5 years, to  
11 complete an initial period of obligated military service;

12 (2) periods in which the service member student was  
13 unable to obtain orders releasing the service member  
14 student from military service before the expiration of the  
15 5-year period and such inability was through no fault of  
16 the service member student; or

17 (3) performed by a service member student who is:

18 (A) ordered to or retained on active duty under  
19 Section 688, 12301(a), 12301(g), 12302, 12304, or  
20 12305 of Title 10 of the United States Code or under  
21 Section 331, 332, 359, 360, 367, or 712 of Title 14 of  
22 the United States Code;

23 (B) ordered to or retained on active duty, other  
24 than for training, under any provision of law because  
25 of war or emergency declared by the President,

1 Congress, the Secretary of a military department, or  
2 the Governor of the State;

3 (C) ordered to active duty, other than for  
4 training, in support, as determined by the Secretary  
5 of a military department, of an operational mission  
6 for which personnel have been ordered to active duty  
7 under Section 12304 of Title 10 of the United States  
8 Code;

9 (D) ordered to active duty in support, as  
10 determined by the Secretary of a military department,  
11 of a critical mission or requirement of military  
12 service;

13 (E) called into federal service as a member of the  
14 National Guard under Chapter 15 of Title 10 or under  
15 Section 12406 of Title 10 of the United States Code; or

16 (F) called into State Active Duty.

17 (b) Documentation. It is the responsibility of the  
18 institution to determine the applicability of the 5-year limit  
19 by maintaining records of periods of academic military leave;  
20 however, institutions may request documentation necessary to  
21 determine if the 5-year rule has been exceeded. Upon request,  
22 a service member student shall provide the documentation as  
23 soon as practicable. The institution cannot request specific  
24 documentation. The documentation provided shall be from an  
25 appropriate military authority. The institution's requests for  
26 documentation are subject to the following:

1           (1) The request must be reasonable.

2           (2) A service member student must be permitted to  
3 continue course work unless and until the documentation,  
4 once provided, demonstrates the 5-year limit has been  
5 exceeded.

6           (c) Exceeding the 5-year limit. Exceeding the 5-year limit  
7 does not obligate an institution to deny readmission.  
8 Readmission and conditions thereof are at the sole discretion  
9 of the institution.

10          (d) The institution may notify the Attorney General's  
11 ISERRA Advocate when the documentation is not provided timely.  
12 The Attorney General shall take steps necessary to ensure the  
13 appropriate documentation is provided.

14          Section 5-25. Advance notice.

15          (a) Advance notice entitles a service member student to an  
16 accommodation and shall be provided in accordance with the  
17 following:

18           (1) Notice must be provided in advance of military  
19 service unless circumstances make such advance notice  
20 impossible or unreasonable under the circumstances. In  
21 this case, advance notice shall be provided as soon as it  
22 becomes practicable under the circumstances.

23           (2) Notice shall be written but may be verbal if  
24 written notice is not reasonable under the circumstances.  
25 No required format or rule for timeliness may be imposed.

1           (3) Notice shall be provided by the service member  
2 student, spouse of such service member student, or  
3 appropriate military authority.

4           (4) Notice shall be provided to each applicable  
5 instructor or, if designated by the institution, to the  
6 appropriate official.

7           (b) Failure to provide advance notice. Failure to provide  
8 advance notice subjects the service member student to the  
9 applicable institution's policies and procedures.

10          (c) Exception; military necessity. No notice is required  
11 if the giving of such notice is precluded by military  
12 necessity, such as when such military service is classified or  
13 when notice may compromise or adversely affect a military  
14 mission, operation, or exercise if known by the public as  
15 determined by appropriate military authority in writing. Such  
16 writing need only declare military necessity without further  
17 explanation and may be provided at any time, up to and  
18 including, with a notice of intent to return.

19          Section 5-30. Notice of intent to return. Notice of intent  
20 to return shall be provided to the institution placing the  
21 service member student on academic military leave consistent  
22 with the following:

23           (1) Intent to return is presumed for academic military  
24 leave less than 31 days.

25           (2) Intent to return is presumed when return is part

1 of an established accommodation.

2 (3) Notice of intent to return may be provided at any  
3 time between advance notice and within 3 years from the  
4 end of the academic military leave period.

5 (4) Notice of intent to return requirement is not met  
6 when it is provided later than 3 years after the  
7 completion of military service unless a service member  
8 student is hospitalized or convalescing from an illness or  
9 injury incurred in or aggravated during such military  
10 service. In this case, notice of intent to return is not  
11 met when it is provided later than 2 years after the end of  
12 the period reasonably necessary for recovery of such  
13 illness or injury.

14 (5) Failure to provide notice of intent to return  
15 subjects the service member student to the institution's  
16 established policies and procedures.

17 (6) Notice of intent to return shall be provided to  
18 each applicable instructor or, when designated by the  
19 institution, to the appropriate official.

20 (7) Notice of intent to return shall be written and in  
21 no particular format.

22 (8) Notice of intent to return may be waived by, and at  
23 the sole discretion of, the institution. Waiver may be  
24 verbal or written or established in policy or procedure.

25 Section 5-35. Discrimination.

1           (a) A person who is a member of, applies to be a member of,  
2 performs, has performed, applies to perform, or has an  
3 obligation to perform military service shall not be  
4 discriminated against by an institution of higher education,  
5 including its faculty and staff on the basis of that  
6 membership, application for membership, performance of  
7 service, obligation, or actual or perceived affiliation with  
8 military service.

9           (b) A person who is a spouse or dependent of a person  
10 described in subsection (a) shall not be discriminated against  
11 by an institution, faculty, or staff based on actual or  
12 perceived affiliation or association with such person  
13 described in subsection (a).

14           (c) Military service does not need to be the sole reason  
15 for discriminatory behavior to be discriminatory but must be,  
16 in part, a basis.

17           Section 5-40. Military spouse. The spouse of a service  
18 member called to military service may withdraw, without  
19 penalty, when such service adversely interferes with the  
20 pursuit of higher education of such spouse. Withdrawal shall  
21 be marked as "withdrawal due to military service" so as not to  
22 prejudice such service member spouse. Such service member  
23 spouse shall be entitled to a full refund except for a pro rata  
24 share of services used.

1 Section 5-45. Notice of rights and duties.

2 (a) Each institution shall provide service member students  
3 entitled to rights and benefits under this Act with a notice of  
4 the rights, benefits, and obligations of service member  
5 students under this Act provided by the Attorney General's  
6 ISERRA Advocate.

7 (b) The requirement for the provision of notice under this  
8 Act may be met by the posting of the notice where the  
9 institution customarily places notices for service member  
10 students.

11 ARTICLE 10. COMPLIANCE

12 Section 10-5. Violation. Any violation of Article 5 is a  
13 violation of this Act.

14 Section 10-15. Private right enforcement. A person may  
15 bring a private civil action for enforcement of a violation of  
16 this Act.

17 Section 10-20. Circuit court action by the Attorney  
18 General.

19 (a) If the Attorney General has reason to believe that any  
20 institution is engaged in a violation of this Act, then the  
21 Attorney General may commence a civil action in the name of the  
22 People of the State on behalf of persons within the State to

1 enforce the provisions of this Act in any appropriate circuit  
2 court.

3 (b) Prior to initiating a civil action, the Attorney  
4 General shall conduct a preliminary investigation to determine  
5 whether there is reason to believe that any institution is  
6 engaged in a violation of this Act and whether the dispute can  
7 be resolved without litigation. In conducting this  
8 investigation, the Attorney General may:

9 (1) require the individual or entity to file a  
10 statement or report in writing under oath or otherwise as  
11 to all information the Attorney General may consider  
12 necessary;

13 (2) examine under oath any person alleged to have  
14 participated in or with the knowledge of the alleged  
15 violation; or

16 (3) issue subpoenas or conduct hearings in aid of any  
17 investigation.

18 (c) Service by the Attorney General of any notice  
19 requiring a person to file a statement or report, or of a  
20 subpoena upon any person, shall be made:

21 (1) personally, by delivery of a duly executed copy  
22 thereof to the person to be served or, if a person is not a  
23 natural person, in the manner provided by the Civil  
24 Procedure law when a complaint is filed; or

25 (2) by mailing by certified mail a duly executed copy  
26 thereof to the person to be served at his or her last known

1           abode or principal place of business within this State.

2           (d) In lieu of civil action, the individual or entity  
3           alleged to have violated this Act may enter into an Assurance  
4           of Voluntary Compliance with respect to the alleged violation.  
5           Evidence of a violation of an Assurance of Voluntary  
6           Compliance shall be prima facie evidence of a violation of  
7           this Act in any subsequent proceeding brought by the Attorney  
8           General against the alleged violator.

9           (e) Whenever any person fails to comply with any subpoena  
10          issued under this Section or whenever satisfactory copying or  
11          reproduction of any material requested in an investigation  
12          cannot be done, and the person refuses to surrender the  
13          material, the Attorney General may file in any appropriate  
14          circuit court, and serve upon the person, a petition for a  
15          court order for the enforcement of the subpoena or other  
16          request.

17          Any person who has received a subpoena issued under  
18          subsection (b) may file in the appropriate circuit court, and  
19          serve upon the Attorney General, a petition for a court order  
20          to modify or set aside the subpoena or other requests. The  
21          petition must be filed either: (1) within 20 days after the  
22          date of service of the subpoena or at any time before the  
23          return date specified in the subpoena, whichever date is  
24          earlier, or (2) within a longer period as may be prescribed in  
25          writing by the Attorney General.

26          The petition shall specify each ground upon which the

1 petitioner relies in seeking relief under this subsection and  
2 may be based upon any failure of the subpoena to comply with  
3 the provision of this Section or upon any constitutional or  
4 other legal right or privilege of the petitioner. During the  
5 pendency of the petition in the court, the court may stay, as  
6 it deems proper, the running of the time allowed for  
7 compliance with the subpoena or other request, in whole or in  
8 part, except that the petitioner shall comply with any portion  
9 of the subpoena or other request not sought to be modified or  
10 set aside.

11 Section 10-25. Remedies.

12 (a) A court in its discretion may award actual damages or  
13 any other relief that the court deems proper. Punitive damages  
14 are not authorized except in cases involving violations under  
15 Section 5-35 prohibiting discrimination, or in a case where  
16 intent to subvert the purpose of this Act can be shown. In no  
17 case may punitive damages exceed \$500,000 per violation.  
18 Reasonable attorney fees may be awarded to the prevailing  
19 party; however, prevailing defendants may only receive  
20 attorney's fees if the court makes a finding that the  
21 plaintiff acted in bad faith.

22 (b) The Attorney General may bring an action in the name of  
23 the people of the State against any institution to restrain by  
24 preliminary or permanent injunction the use of any practice  
25 that violates this Act. In such an action, the court may award

1 restitution. In addition, the court may assess a civil penalty  
2 not to exceed \$50,000 per violation of this Act.

3 (c) If a court orders a party to make payments to the  
4 Attorney General and the payments are to be used for the  
5 operations of the Office of the Attorney General or if a party  
6 agrees to make payment to the Attorney General for the  
7 operations of the Office of the Attorney General as part of an  
8 Assurance of Voluntary Compliance, then the moneys paid under  
9 any of the conditions described in this subsection (c) shall  
10 be deposited into the Attorney General Court Ordered and  
11 Voluntary Compliance Payment Projects Fund. Moneys in the Fund  
12 shall be used, subject to the appropriation, for the  
13 performance of any function pertaining to the exercise of the  
14 duties of the Attorney General including, but not limited to,  
15 enforcement of any law of this State and conducting public  
16 education programs; however, any moneys in the Fund that are  
17 required by the court or by an agreement to be used for a  
18 particular purpose shall be used for that purpose.

19 (d) In any action brought under the provisions of this  
20 Act, the Attorney General is entitled to recover costs.

21 (e) If an investigation by the Attorney General finds that  
22 the institution has acted in bad faith, a report shall be sent  
23 to both State and federal entities that oversee colleges and  
24 universities in any capacity.

25 ARTICLE 15. STATUTE OF LIMITATIONS, ISERRA ADVOCATE, RULES AND

1

## ELECTION

2

Section 15-5. Inapplicability of statute of limitations.  
No statute of limitations applies to any private right or  
Attorney General action under this Act.

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Section 15-20. ISERRA Advocate.

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(a) The ISERRA Advocate appointed by the Attorney General  
under Section 30-5 of the Service Member Employment and  
Reemployment Rights Act shall enforce this Act on behalf of  
the Attorney General.

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(b) Through the ISERRA Advocate, the Attorney General  
shall have the power to:

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(1) establish and make available a program to provide  
training to institutions and service member students;

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14

(2) prepare and make available interpretive and  
educational materials and programs;

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(3) respond to informal inquiries made by  
institutions, service member students, and interested  
members of the public;

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(4) prepare and make available the notice required  
under Section 5-45 on the rights, benefits, and  
obligations under this Act; and

20

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22

(5) investigate allegations of violations of this Act  
on behalf of the Attorney General.

23

1           Section 15-25. Rules. To accomplish the objectives and to  
2 carry out the duties prescribed by this Act, the Attorney  
3 General may adopt any rules necessary to implement this Act.

4           Section 15-30. Governor's election. In a time of national  
5 or State emergency, the Governor has the authority to  
6 designate persons as entitled to protections under this Act.