

AN ACT concerning veterans.

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

ARTICLE 1. GENERAL PROVISIONS

Section 1-1. Short title; references to Act.

(a) Short title. This Act may be cited as the Service Member Education Rights Veneration Act.

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

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

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

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

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

accommodations; and

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

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

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

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

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

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

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

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

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

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

"Academic standing" means grade point average.

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

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

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

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

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

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

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

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

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

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

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

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

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

educational standards.

"Service member student" means a person enrolled in an institution of higher education who is eligible to be ordered to military service.

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

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

#### ARTICLE 5. ACCOMMODATION AND READMISSION REQUIREMENTS

##### Section 5-5. Readmission.

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

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

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

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

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

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

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

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

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

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

(e) A service member student shall provide documentation demonstrating applicability of exemptions upon request by the institution, subject to the following:

(1) The institution cannot request specific documentation.

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

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

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

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

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

Section 5-10. Academic military leave.

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

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

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

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

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

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

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

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

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

Section 5-15. Accommodation.

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

(b) Accommodations. Accommodation made by an institution of higher education under this Act:

(1) Shall be mutually agreed upon and conditioned on tasks that both sides must complete to fulfill the agreement.

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

(3) Shall not violate any law prohibiting discrimination.

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

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

(6) Shall benefit the service member student.

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

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

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

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

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

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

(B) Readmission to the same academic enrollment status.

(C) Readmission with the same number of credit hours or clock hours unless the service member student is readmitted to a different academic program to which

the completed credit hours or clock hours are not transferable.

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

(E) Readmission with the same academic progress.

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

(11) Shall be reasonable under the circumstances.

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

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

(d) Reimbursement. All expenses, including, but not limited to, tuition, fees, and penalties, charged by the institution are fully refundable for any academic year division the institution determines that withdrawal, due to

military service, is the only appropriate accommodation based on the characteristics of the academic military leave in question subject to the following:

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

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

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

(4) Textbooks. If a service member student must withdraw from any course due to military service, the service member student shall receive the maximum price, based on condition, for physical textbooks purchased from the bookstore under the control of and associated with the institution. Such students shall receive a full refund for electronic books.

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

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

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

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

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

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

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

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

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

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

similar academic program and status;

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

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

Section 5-20. Five-year limit.

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

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

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

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

(A) ordered to or retained on active duty under Section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of Title 10 of the United States Code or under Section 2127, 2128, 2308, 2309, 2314, or 712 of Title 14 of the United States Code;

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

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

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

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

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

(F) called into State Active Duty.

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

(1) The request must be reasonable.

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

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

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

Section 5-25. Advance notice.

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

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

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

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

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

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

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

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

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

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

of an established accommodation.

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

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

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

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

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

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

Section 5-35. Discrimination.

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

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

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

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

Section 5-45. Notice of rights and duties.

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

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

ARTICLE 10. COMPLIANCE

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

Section 10-10. Circuit court action by the Attorney General.

(a) If the Attorney General has reason to believe that any institution is engaged in a violation of this Act, then the Attorney General may commence a civil action in the name of the People of the State on behalf of persons within the State to enforce the provisions of this Act in any appropriate circuit court.

(b) Prior to initiating a civil action, the Attorney General shall conduct a preliminary investigation to determine

whether there is reason to believe that any institution is engaged in a violation of this Act and whether the dispute can be resolved without litigation. In conducting this investigation, the Attorney General may:

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

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

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

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

- (1) personally, by delivery of a duly executed copy thereof to the person to be served or, if a person is not a natural person, in the manner provided by the Civil Practice Law when a complaint is filed; or

- (2) by mailing by certified mail, a duly executed copy thereof to the person to be served at his or her last known abode or principal place of business within this State.

(d) In lieu of civil action, the individual or entity alleged to have violated this Act may enter into an Assurance of Voluntary Compliance with respect to the alleged violation.

Evidence of a violation of an Assurance of Voluntary Compliance shall be prima facie evidence of a violation of this Act in any subsequent proceeding brought by the Attorney General against the alleged violator.

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

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

The petition shall specify each ground upon which the petitioner relies in seeking relief under this subsection and may be based upon any failure of the subpoena to comply with the provision of this Section or upon any constitutional or other legal right or privilege of the petitioner. During the

pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the subpoena or other request, in whole or in part, except that the petitioner shall comply with any portion of the subpoena or other request not sought to be modified or set aside.

Section 10-15. Remedies.

(a) A court in its discretion may award actual damages or any other relief that the court deems proper. Punitive damages are not authorized except in cases involving violations under Section 5-35 prohibiting discrimination, or in a case where intent to subvert the purpose of this Act can be shown. In no case may punitive damages exceed \$100,000 per violation. Reasonable attorney's fees may be awarded to the prevailing party; however, prevailing defendants may only receive attorney's fees if the court makes a finding that the plaintiff acted in bad faith.

(b) The Attorney General may bring an action in the name of the people of the State against any institution to restrain by preliminary or permanent injunction the use of any practice that violates this Act. In such an action, the court may award restitution. In addition, the court may assess a civil penalty not to exceed \$25,000 per violation of this Act.

(c) If a court orders a party to make payments to the Attorney General and the payments are to be used for the

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

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

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

## ARTICLE 15. STATUTE OF LIMITATIONS, ISERRA ADVOCATE, RULES AND ELECTION

Section 15-5. Statute of limitations. Any action brought under this Act by the Attorney General shall be commenced

within 20 years after the date upon which the alleged violation occurred.

Section 15-20. ISERRA Advocate.

(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.

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

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

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

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

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

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

Section 15-25. Governor's election. In a time of national or State emergency, the Governor has the authority to designate persons as entitled to protections under this Act.