



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB2041

Introduced 2/7/2023, by Rep. Katie Stuart

#### SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.719 rep.  
105 ILCS 426/75.5 new  
110 ILCS 131/5  
110 ILCS 155/35  
110 ILCS 205/3 from Ch. 144, par. 183  
110 ILCS 205/9.29  
110 ILCS 1005/14.10 rep.  
110 ILCS 1005/14.15 new  
110 ILCS 1005/15 from Ch. 144, par. 135  
110 ILCS 1010/7.5 new  
110 ILCS 1010/10.10

Amends the Private Business and Vocational Schools Act of 2012. Provides that the Board of Higher Education may issue a cease and desist order to any school operating without the required permit of approval and may impose a civil penalty. Sets forth various requirements for the cease and desist order and the penalty. Amends the Private College Act and the Academic Degree Act to make similar changes. Amends the Higher Education Housing and Opportunities Act. Provides that the definition of "institution of higher education" or "institution" means any publicly or privately operated university, college, community college, business, technical, or vocational school, or other educational institution in this State (rather than not specifying the location). Amends the Preventing Sexual Violence in Higher Education Act. Provides that the Illinois Community College Board shall administer specified provisions with the Board of Higher Education (instead of only the Board of Higher Education). Provides that the Task Force on Campus Sexual Misconduct Climate Surveys is extended for an additional year. Amends the Board of Higher Education Act. Provides that the member of the Board representing public university governing boards and the member of the Board representing private college and university boards of trustees, who are appointed by the Governor but not subject to confirmation by the Senate, shall serve terms of 3 years (instead of one year). Makes other changes. Effective immediately.

LRB103 04933 RJT 49943 b

1 AN ACT concerning education.

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

4 (30 ILCS 105/5.719 rep.)

5 Section 5. The State Finance Act is amended by repealing  
6 Section 5.719.

7 Section 10. The Private Business and Vocational Schools  
8 Act of 2012 is amended by adding Section 75.5 as follows:

9 (105 ILCS 426/75.5 new)

10 Sec. 75.5. Operating without a permit; cease and desist  
11 order. The Board may issue a cease and desist order to any  
12 school operating without the required permit of approval and  
13 may impose a civil penalty for such a violation. Each day's  
14 violation shall constitute a separate offense. The penalty for  
15 such a violation shall be a fee or other conditions as  
16 established by rule. A penalty fee may not exceed \$10,000 per  
17 violation. The Attorney General may bring an action in circuit  
18 court to enforce the collection of the penalty fee.

19 The cease and desist order shall be issued to the school,  
20 shall contain the school's name and address and a brief  
21 factual statement, and shall identify this Act and the  
22 statutory citations of this Act allegedly violated and the

1 penalty, if any, imposed. The cease and desist order must  
2 clearly state that the school may choose to request a hearing.  
3 If the school does not request a hearing with the Board within  
4 30 days after the cease and desist order is served, then the  
5 cease and desist order shall become final and not subject to  
6 appeal notwithstanding anything to the contrary under Section  
7 85 of this Act.

8 Section 15. The Higher Education Housing and Opportunities  
9 Act is amended by changing Section 5 as follows:

10 (110 ILCS 131/5)

11 Sec. 5. Definitions. As used in this Act:

12 "Institution of higher education" or "institution" means  
13 any publicly or privately operated university, college,  
14 community college, business, technical, or vocational school,  
15 or other educational institution in this State offering  
16 degrees and instruction beyond the secondary school level.

17 "Student experiencing homelessness" or "homeless student"  
18 means an individual enrolled in an institution who lacks or is  
19 at imminent risk of lacking a fixed, regular, and adequate  
20 nighttime residence or whose parent or legal guardian is  
21 unable or unwilling to provide shelter and care and includes a  
22 homeless individual as defined under the federal  
23 McKinney-Vento Homeless Assistance Act. For the purposes of  
24 this definition, the term "fixed, regular, and adequate

1 nighttime residence" does not include residence in an  
2 institution of higher education's on-campus housing.

3 "Student in care" means any person, regardless of age, who  
4 is or was under the care and legal custody of the Department of  
5 Children and Family Services, including youth for whom the  
6 Department has court-ordered legal responsibility, youth who  
7 aged out of care at age 18 or older, or youth formerly under  
8 care who have been adopted and were the subject of an adoption  
9 assistance agreement or who have been placed in private  
10 guardianship and were the subject of a subsidized guardianship  
11 agreement.

12 (Source: P.A. 102-83, eff. 8-1-22.)

13 Section 20. The Preventing Sexual Violence in Higher  
14 Education Act is amended by changing Section 35 as follows:

15 (110 ILCS 155/35)

16 Sec. 35. Sexual misconduct climate survey.

17 (a) As used in this Section:

18 "Base survey" means a base set of common questions  
19 recommended by the Task Force on Campus Sexual Misconduct  
20 Climate Surveys and approved by the Executive Director of the  
21 Board of Higher Education.

22 "Student" means a person who is enrolled in a public or  
23 private degree-granting, post-secondary higher education  
24 institution, whether part-time, full-time, or as an extension

1 student, including any person who has taken a leave of absence  
2 or who has withdrawn from the higher education institution due  
3 to being a victim of sexual misconduct.

4 "Trauma informed" means an understanding of the  
5 complexities of sexual violence, domestic violence, dating  
6 violence, or stalking through training centered on the  
7 neurobiological impact of trauma, the influence of societal  
8 myths and stereotypes surrounding sexual violence, domestic  
9 violence, dating violence, or stalking, and understanding the  
10 behavior of perpetrators.

11 (b) Each higher education institution shall annually  
12 conduct a sexual misconduct climate survey of all students at  
13 the institution. Each higher education institution's sexual  
14 misconduct climate survey shall include the base survey, which  
15 the Board of Higher Education or Illinois Community College  
16 Board, whichever is applicable, shall provide to the  
17 institution every 2 years. Each institution may append its own  
18 campus-specific questions to the base survey if questions do  
19 not require the disclosure of any personally identifying  
20 information by the students and are trauma informed. The Board  
21 of Higher Education and Illinois Community College Board, in  
22 consultation with the Office of the Attorney General, as  
23 necessary, shall review any complaints submitted by students  
24 who believe that questions included in the campus sexual  
25 misconduct climate survey are traumatizing. Within 120 days  
26 after completion of a sexual misconduct climate survey, but no

1 later than one year after the Board of Higher Education or  
2 Illinois Community College Board, whichever is applicable,  
3 issued the last base survey, each institution shall compile a  
4 summary of the results of the sexual misconduct climate  
5 survey, including, but not limited to, the complete aggregated  
6 results for each base survey question, and shall submit the  
7 summary to the Board of Higher Education or Illinois Community  
8 College Board, as well as publish the summary on the  
9 institution's website in an easily accessible manner.

10 (c) The Task Force on Campus Sexual Misconduct Climate  
11 Surveys is created. The Task Force shall consist of the  
12 following members:

13 (1) the Executive Director of the Board of Higher  
14 Education or a designee, who shall serve as chairperson;

15 (2) the Governor or a designee;

16 (3) one member of the Senate, appointed by the  
17 President of the Senate;

18 (4) one member of the House of Representatives,  
19 appointed by the Speaker of the House of Representatives;

20 (5) one member of the Senate, appointed by the  
21 Minority Leader of the Senate;

22 (6) one member of the House of Representatives,  
23 appointed by the Minority Leader of the House of  
24 Representatives;

25 (7) the Attorney General or a designee;

26 (8) the Director of Public Health or a designee; and

1 (9) the following members appointed by the Governor:

2 (A) one member who is a student attending a public  
3 higher education institution in Illinois;

4 (B) one member who is a student attending a  
5 private higher education institution in Illinois;

6 (C) one member who is a student attending a  
7 community college in Illinois;

8 (D) one member who is a representative of the  
9 University of Illinois recommended by the president of  
10 the university;

11 (E) one member who is a representative of the  
12 Illinois Community College Board;

13 (F) one member who is a representative of private  
14 colleges and universities recommended by the  
15 Federation of Independent Illinois Colleges and  
16 Universities;

17 (G) 3 members who are representatives of survivors  
18 of sexual assault recommended by the Illinois  
19 Coalition Against Sexual Assault, with one  
20 specifically representing survivors in rural  
21 communities and one specifically representing  
22 survivors in urban communities;

23 (H) one member who is a representative of a  
24 non-profit legal services organization that provides  
25 legal representation to victims of campus sexual  
26 assault in Illinois;

1 (I) one member who is a representative recommended  
2 by the Illinois Coalition Against Domestic Violence;

3 (J) one member who is a representative recommended  
4 by Equality Illinois;

5 (K) one member who is a representative of an  
6 immigrant rights advocacy organization;

7 (L) one member who is a representative recommended  
8 by the Every Voice Coalition or any successor  
9 organization of the Every Voice Coalition;

10 (M) one member who is a researcher with experience  
11 in the development and design of sexual misconduct  
12 climate surveys; and

13 (N) one member who is a researcher of statistics,  
14 data analytics, or econometrics with experience in  
15 higher education survey analysis.

16 The Task Force shall hold its first meeting as soon as  
17 practicable after the effective date of this amendatory Act of  
18 the 102nd General Assembly. Administrative and other support  
19 for the Task Force shall be provided by the Board of Higher  
20 Education. Members of the Task Force shall serve 2-year terms  
21 that commence on the date of appointment. Members shall  
22 continue to serve until their successors are appointed. Any  
23 vacancy shall be filled by the appointing authority. Any  
24 vacancy occurring other than by expiration of the term shall  
25 be filled for the balance of the unexpired term. A majority of  
26 the Task Force shall constitute a quorum for the transaction



1 of any business.

2 Members of the Task Force shall serve without compensation  
3 but shall be reimbursed for expenses necessarily incurred in  
4 the performance of their duties if funds are available.  
5 However, the higher education institution in which a student  
6 member is enrolled may compensate that student for  
7 participating on the Task Force through a work-study program  
8 or by providing a stipend to support the work of the student  
9 member on the Task Force.

10 (d) The Task Force shall develop and recommend to the  
11 Board of Higher Education and Illinois Community College Board  
12 the base survey for distribution to higher education  
13 institutions and provide the Board of Higher Education and  
14 Illinois Community College Board with any related  
15 recommendations regarding the content, timing, and application  
16 of the base survey. The Task Force shall deliver the base  
17 survey and related recommendations, including, but not limited  
18 to, recommendations on achieving statistically valid response  
19 rates, to the Board of Higher Education and Illinois Community  
20 College Board no less often than every 2 years and for the  
21 first time on or before July 31, 2023 ~~July 31, 2022~~.  
22 Thereafter, the Task Force shall meet in the year 2025 ~~2024~~ and  
23 in the year 2027 ~~2026~~ to review the results of the survey and  
24 to implement updates and improvements. The Task Force is  
25 dissolved after the completion of the 2027 ~~2026~~ base survey.  
26 After the dissolution of the Task Force, the Executive

1 Director of the Board of Higher Education or a designee shall  
2 review the base survey every 2 years to consider any feedback  
3 that has been received and to implement improvements.

4 (e) In developing the base survey, the Task Force shall:

5 (1) utilize best practices from peer-reviewed research  
6 and consult with individuals with expertise in the  
7 development and use of sexual misconduct climate surveys  
8 by higher education institutions;

9 (2) review sexual misconduct climate surveys that have  
10 been developed and previously utilized by higher education  
11 institutions in Illinois and by other states that mandate  
12 campus climate surveys;

13 (3) provide opportunities for written comment from  
14 survivors and organizations that work directly with  
15 survivors of sexual misconduct to ensure the adequacy and  
16 appropriateness of the proposed content;

17 (4) consult with institutions on strategies for  
18 optimizing the effectiveness of the survey;

19 (5) account for the diverse needs and differences of  
20 higher education institutions; and

21 (6) review the base survey to ensure that the strategy  
22 for gathering information is trauma informed.

23 (f) The base survey shall gather information on topics,  
24 including, but not limited to:

25 (1) the number and type of incidents, both reported to  
26 the higher education institution and unreported to the

1 higher education institution, of sexual misconduct at the  
2 higher education institution;

3 (2) when and where incidents of sexual misconduct  
4 occurred, such as on campus, off campus, abroad, or  
5 online;

6 (3) student awareness of institutional policies and  
7 procedures related to campus sexual misconduct;

8 (4) whether a student reported the sexual misconduct  
9 to the higher education institution and, if so, to which  
10 campus resource such report was made and, if not, the  
11 reason for the student's decision not to report;

12 (5) whether a student reported the sexual misconduct  
13 to law enforcement and, if so, to which law enforcement  
14 agency such report was made;

15 (6) whether a student was informed of or referred to  
16 local, State, campus, or other resources or victim support  
17 services, including appropriate medical care, advocacy,  
18 counseling, and legal services;

19 (7) whether a student was provided information  
20 regarding his or her right to protection from retaliation,  
21 access to school-based accommodations, and criminal  
22 justice remedies;

23 (8) contextual factors, such as the involvement of  
24 force, incapacitation, coercion, or drug or alcohol  
25 facilitation;

26 (9) demographic information that could be used to

1 identify at-risk groups, including, but not limited to,  
2 gender, race, immigration status, national origin,  
3 ethnicity, disability status, sexual orientation, and  
4 gender identity;

5 (10) perceptions of campus safety among members of the  
6 campus community and confidence in the institution's  
7 ability to protect against and respond to incidents of  
8 sexual misconduct;

9 (11) whether the student has chosen to withdraw or has  
10 taken a leave of absence from the institution or  
11 transferred to another institution;

12 (12) whether the student has withdrawn from any  
13 classes or has been placed on academic probation as a  
14 result of the incident; and

15 (13) other questions as determined by the Task Force.

16 All questions on the base survey shall be optional or shall  
17 offer the student the option to select "I prefer not to answer"  
18 as a response on the survey.

19 (g) The sexual misconduct climate survey shall collect  
20 anonymous responses and shall not provide for the public  
21 disclosure of any personally identifying information. No  
22 institution may use or attempt to use information collected  
23 through the sexual misconduct climate survey to identify or  
24 contact any individual student on campus, nor shall the  
25 results of the survey be used as the basis for any type of  
26 investigation or disciplinary or legal proceeding.

1 (h) There shall be established within the Office of the  
2 Board of Higher Education and the Office of the Illinois  
3 Community College Board a data repository for all summaries of  
4 sexual misconduct climate surveys submitted by higher  
5 education institutions to the Board of Higher Education or  
6 Illinois Community College Board in accordance with subsection  
7 (b). The Board of Higher Education and Illinois Community  
8 College Board shall ensure that the sexual misconduct climate  
9 survey data submitted by all applicable institutions is  
10 available to the public in an easily accessible manner on the  
11 Board of Higher Education's or Illinois Community College  
12 Board's website.

13 (i) Each higher education institution shall publish on the  
14 institution's website in an easily accessible manner:

15 (1) the campus level results of the survey;

16 (2) the annual security report required under the  
17 federal Jeanne Clery Disclosure of Campus Security Policy  
18 and Campus Crime Statistics Act;

19 (3) the reports required under Section 9.21 of the  
20 Board of Higher Education Act; and

21 (4) a link to the Board of Higher Education's and  
22 Illinois Community College Board's statewide data on  
23 sexual misconduct climate survey data as set forth in  
24 subsection (h).

25 (j) The Board of Higher Education and Illinois Community  
26 College Board shall establish rules and procedures, including

1 deadlines for dissemination and collection of survey  
2 information, consistent with the purposes of this Section and  
3 shall promote effective solicitation to achieve the highest  
4 practical response rate, collection, and publication of  
5 statistical information gathered from higher education  
6 institutions.

7 (k) Upon determination, after reasonable notice and  
8 opportunity for a hearing, that a higher education institution  
9 has violated or failed to carry out any provision of this  
10 Section or any rule adopted under this Section, the Board of  
11 Higher Education or Illinois Community College Board,  
12 whichever is applicable, may impose a civil penalty upon such  
13 institution not to exceed \$50,000, which shall be adjusted for  
14 inflation annually, for each violation. The Board of Higher  
15 Education and Illinois Community College Board shall use any  
16 such civil penalty funds to provide oversight of this Section  
17 and to provide funding to community organizations that provide  
18 services to sexual assault victims. The Attorney General may  
19 bring an action in the circuit court to enforce the collection  
20 of any monetary penalty imposed under this subsection (k).

21 (Source: P.A. 102-325, eff. 8-6-21.)

22 Section 25. The Board of Higher Education Act is amended  
23 by changing Sections 3 and 9.29 as follows:

24 (110 ILCS 205/3) (from Ch. 144, par. 183)

1           Sec. 3. Terms; vacancies.

2           (a) The members of the Board whose appointments are  
3 subject to confirmation by the Senate shall be selected for  
4 6-year terms expiring on January 31 of odd numbered years.

5           (b) The members of the Board shall continue to serve after  
6 the expiration of their terms until their successors have been  
7 appointed.

8           (c) Vacancies on the Board in offices appointed by the  
9 Governor shall be filled by appointment by the Governor for  
10 the unexpired term. If the appointment is subject to Senate  
11 confirmation and the Senate is not in session or is in recess  
12 when the appointment is made, the appointee shall serve  
13 subject to subsequent Senate approval of the appointment.

14           (d) Each student member shall serve a term of one year  
15 beginning on July 1 of each year and until a successor is  
16 appointed and qualified.

17           (e) The member of the Board representing public university  
18 governing boards and the member of the Board representing  
19 private college and university boards of trustees, who are  
20 appointed by the Governor but not subject to confirmation by  
21 the Senate, shall serve terms of 3 years ~~one year~~ beginning on  
22 July 1.

23           (Source: P.A. 102-1046, eff. 6-7-22.)

24           (110 ILCS 205/9.29)

25           Sec. 9.29. Tuition and fee waiver report.

1 (a) The Board of Higher Education shall annually compile  
2 information concerning tuition and fee waivers and tuition and  
3 fee waiver programs that has been provided by the Boards of  
4 Trustees of the University of Illinois, Southern Illinois  
5 University, Chicago State University, Eastern Illinois  
6 University, Governors State University, Illinois State  
7 University, Northeastern Illinois University, Northern  
8 Illinois University, and Western Illinois University and shall  
9 report its findings and recommendations concerning tuition and  
10 fee waivers and tuition and fee waiver programs to the General  
11 Assembly by filing electronic or paper copies of its report by  
12 December 31 of each year as provided in Section 3.1 of the  
13 General Assembly Organization Act.

14 (b) No later than November 1, 2023 ~~July 1, 2020~~, and  
15 annually thereafter, each public university must submit a  
16 report to the Board of Higher Education on the amount of  
17 tuition that undergraduate, degree-seeking students attending  
18 the university paid in the previous academic year that  
19 includes all of the following information:

20 (1) The percentage of undergraduate students who paid  
21 more than 75% of full tuition costs.

22 (2) The percentage of undergraduate students who paid  
23 more than 50% but no more than 75% of full tuition costs.

24 (3) The percentage of undergraduate students who paid  
25 more than 25% but no more than 50% of full tuition costs.

26 (4) The percentage of undergraduate students who paid



1 no more than 25% of full tuition costs.

2 (5) The percentage of undergraduate students who had  
3 no tuition costs.

4 The tuition costs calculated under this subsection must  
5 reflect the amount of tuition paid by a student after all  
6 scholarships, grants, and other financial assistance have been  
7 applied to his or her tuition charge and must reflect only the  
8 amounts paid by undergraduate, degree-seeking students.

9 The Board of Higher Education must annually compile and  
10 submit to the General Assembly, as part of the report required  
11 under subsection (a), the information received under this  
12 subsection.

13 (Source: P.A. 100-167, eff. 1-1-18; 101-93, eff. 1-1-20.)

14 (110 ILCS 1005/14.10 rep.)

15 Section 30. The Private College Act is amended by  
16 repealing Section 14.10.

17 Section 35. The Private College Act is amended by adding  
18 Section 14.15 and by changing Section 15 as follows:

19 (110 ILCS 1005/14.15 new)

20 Sec. 14.15. Operating without a certificate; cease and  
21 desist order. The Board may issue a cease and desist order to  
22 any post-secondary educational institution operating without  
23 the required certificate of approval and may impose a civil

1 penalty for such a violation. Each day's violation shall  
2 constitute a separate offense. The penalty for such a  
3 violation shall be a fee or other conditions as established by  
4 rule. A penalty fee may not exceed \$10,000 per violation. The  
5 Attorney General may bring an action in circuit court to  
6 enforce the collection of the penalty fee.

7 The cease and desist order shall be issued to the  
8 institution, shall contain the institution's name and address  
9 and a brief factual statement, and shall identify this Act and  
10 the statutory citations of this Act allegedly violated and the  
11 penalty, if any, imposed. The cease and desist order must  
12 clearly state that the institution may choose to request a  
13 hearing. If the institution does not request a hearing with  
14 the Board within 30 days after the cease and desist order is  
15 served, then the cease and desist order shall become final and  
16 not subject to appeal notwithstanding anything to the contrary  
17 under Section 12 of this Act.

18 (110 ILCS 1005/15) (from Ch. 144, par. 135)

19 Sec. 15. Any person violating any provision of this Act  
20 shall be guilty of a petty offense and fined not less than \$25  
21 nor more than \$10,000 ~~\$100~~. Each day's violation of any  
22 provision of this Act shall constitute a separate offense.

23 (Source: P.A. 84-1308.)

24 Section 40. The Academic Degree Act is amended by adding

1 Section 7.5 and by changing Section 10.10 as follows:

2 (110 ILCS 1010/7.5 new)

3 Sec. 7.5. Cease and desist order. The Board may issue a  
4 cease and desist order to any educational organization or  
5 entity operating without the required authorization to operate  
6 and grant degrees. The Board may impose a civil penalty for  
7 such a violation. Each day's violation shall constitute a  
8 separate offense. The penalty for such a violation shall be a  
9 fee or other conditions as established by rule. A penalty fee  
10 may not exceed \$10,000 per violation. The Attorney General may  
11 bring an action in circuit court to enforce the collection of  
12 the penalty fee.

13 The cease and desist order shall be issued to the  
14 educational organization or entity, shall contain the name and  
15 address of the educational organization or entity and a brief  
16 factual statement, and shall identify this Act and the  
17 statutory citations of this Act allegedly violated and the  
18 penalty, if any, imposed. The cease and desist order must  
19 state clearly that the educational organization or entity may  
20 choose to request a hearing. If the educational organization  
21 or entity does not request a hearing with the Board or its  
22 designee within 30 days after the cease and desist order is  
23 served, then the cease and desist order shall become final and  
24 not subject to appeal notwithstanding anything to the contrary  
25 under Section 10 of this Act.

1 (110 ILCS 1010/10.10)

2 Sec. 10.10. Academic Quality Assurance Fund. The Academic  
3 Quality Assurance Fund is created as a special fund in the  
4 State treasury. All fees collected for the administration and  
5 enforcement of this Act and the Private College Act must be  
6 deposited into this Fund. All money in the Fund must be used,  
7 subject to appropriation, by the Board to supplement support  
8 for the administration and enforcement of this Act and the  
9 Private College Act and must not be used for any other purpose.

10 Rulemaking authority to implement this amendatory Act of  
11 the 95th General Assembly, if any, is conditioned on the rules  
12 being adopted in accordance with all provisions of the  
13 Illinois Administrative Procedure Act and all rules and  
14 procedures of the Joint Committee on Administrative Rules; any  
15 purported rule not so adopted, for whatever reason, is  
16 unauthorized.

17 (Source: P.A. 95-1046, eff. 3-27-09.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.