



**ILLINOIS STATE
BAR ASSOCIATION**

Illinois State Bar Association
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**ISBA and the Unauthorized Practice of Law -
What The Public Needs To Know.**

To protect the public from hustlers and scammers, the courts and the legislature have prohibited people not trained as lawyers from practicing law. Most of these laws predate modern consumer protection laws.

Who can practice law?

Only licensed lawyers may practice law in Illinois. In order to be licensed to practice law in Illinois, a person must attend a law school accredited by the American Bar Association. In addition to graduating from law school, a person must pass the Illinois Bar Examination, a rigid test of knowledge in many fields of law, and a person must undergo a thorough examination by the Supreme Court's Committee on Character and Fitness.

What is the practice of law?

While an all-encompassing definition of what constitutes the practice of law is impossible to formulate, courts have explained the practice of law as giving advice or services "when the giving of such advice or rendition of such service requires the use of any degree of legal knowledge or skill." *People ex rel, Illinois State Bar Association v. Schafer*, 404 Ill. 45, 50 (1949).

In Illinois, the practice of law is not limited to appearing in court, but also the giving of advice or rendering of any service requiring the use of any legal skill or knowledge. This includes, for example, preparing documents.

What is a paralegal and what can they do?

Paralegals or legal assistants help lawyers. In Illinois, paralegals and legal assistants must work under the direct supervision of a lawyer or lawyers. Paralegals may not work independently or alone.

There are advertisements in newspapers that say people or offices can help avoid the expense of a lawyer. What are these people or offices allowed to do?

In Illinois, only a licensed lawyer can give legal advice. If a service or person offers to do something as simple as help you complete a legal form, that may be considered the unauthorized practice of law.

Many stores sell legal forms for use by the public. If you purchase this type of form or forms, and you fill them out to the best of your abilities you are representing yourself, which is legal. If another person tells you what form to use, or attempts to guide you in your responses to requests for information on the forms, they are practicing law, illegally.

If I try to do things on my own, would I get in trouble?

No. Any individual in Illinois has the right to represent him or herself. If you wish to represent yourself and conduct your own research you may do so and you may go to court to represent yourself.

If I have used a non-lawyer and they messed things up, what are my options?

You can hire a qualified lawyer to solve your problems. You can also notify the State's Attorney or the Office of the Illinois Attorney General about the non-lawyer and those offices may prosecute the non-lawyer for the unauthorized practice of law.

There are obviously some good reasons to hire a lawyer to help when I have a legal problem. But saving money is also a concern. Why should I spend the money on a lawyer if I can find help somewhere else?

There are many good reasons to hire a lawyer. In Illinois, lawyers are required to take continuing legal education courses to stay current in their area of practice. Non-lawyers may have no legal skills or knowledge and no formal legal education.

In Illinois lawyers must keep confidential all discussions with their clients. Non-lawyers have no such set of rules. Non lawyers don't have to keep your private information confidential.

In Illinois lawyers must pass a bar exam and prove they have the character and fitness to practice law or represent others who have legal problems. Non-lawyers are not subject to such investigation and examination.

In Illinois, lawyers are governed by the Illinois Supreme Court's Rules of Professional Conduct and are regulated by the Court's Attorney Registration and Disciplinary Commission. If you believe your lawyer acted unethically, you can ask the Attorney Registration and Disciplinary Commission to investigate the lawyer. Paralegals and non-lawyers have no such oversight.

In Illinois many lawyers carry malpractice insurance to protect their clients. Non-lawyers offer no such protection.

These are just a few of the reasons.

Are there other low cost or free legal information options?

Yes. If you need legal advice and have limited resources you do have options.

If the issue is civil rather than criminal, you may be able to use a legal service provider. Legal service clients must be able to prove that they qualify by income. Check your yellow pages for:

Land of Lincoln Legal Assistance Foundation

<http://www.lollaf.org/>

618.462.0029; 800.642.5570

or

Prairie State Legal Services

<http://www.pslegal.org/>

815. 965.2134

In areas not covered by these two legal service providers, look for:

Chicago Legal Clinic

<http://www.clclaw.org/>

773.731.1762

Chicago Volunteer Legal Service

<http://www.cvlvs.org/>

312.332.1624

Coordinated Advice and Referral Program for Legal Services (CARPLS)

<http://www.carpls.org/Home.aspx>

312.738.9494

DuPage Legal Aid Service

<http://www.geocities.com/lasduplicate@sbcglobal.net/>

630.653.6212

Legal Aid Bureau of Metropolitan Chicago

<http://www.metrofamily.org/services/lab.asp>

312.986.4000

Legal Assistance Foundation of Metropolitan Chicago

<http://www.lafchicago.org/>

312.341.1070

Some county bar associations have *pro bono* programs. *Pro Bono* means no fee or reduced fee. To qualify for this kind of program you must indicate that you don't have the financial resources to retain counsel. Check your telephone

directory for your county bar association. Some legal service providers have websites. Check on the Attorney General's website for links.

<http://www.illinoisattorneygeneral.gov/about/probono.html>

If you want a private lawyer to help you, you can contact the *Illinois Lawyer Finder Service*. The Service will refer you to a lawyer in your area who has agreed to provide a half-hour consultation for a fee not to exceed \$25. After that first half-hour, if you decide to hire the lawyer, you would need to discuss fees. All lawyers on this Service must be in good standing with the Supreme Court's Attorney Registration and Disciplinary Commission and must carry malpractice insurance. The Service operates Monday through Friday from 9:00 a.m. to 4:00 p.m. Call toll free 800.922.8757. www.illinoislawyerfinder.com

If I do need to hire a lawyer, what kind of fees can I expect to pay?

When you decide to hire a lawyer to help you with a legal matter, whether criminal or civil, you are hiring a person who is educated, experienced and bound by rules of professional ethics.

Be sure you ask the lawyer what they will be charging for the legal work you are asking them to undertake on your behalf. Some lawyers will work for a set fee, others will charge on an hourly rate. Some will take cases on a contingent fee basis, which means they will take a percentage of any monetary award that results from the representation. If you agree to a contingent fee arrangement, be sure that you ask to see if all expenses of the case are included in that arrangement or if you will have to pay extra for expert witnesses, court fees, etc.

Some lawyers ask clients to pay what is called a retainer. This is a fee that is similar to earnest money in a real estate transaction, in that it establishes a formal agreement between the lawyer and the client. There are many different kinds of retainer fee agreements. Be sure that your lawyer explains this fee and tells you how these fees will be earned.

Lawyers can base their hourly rates on a variety of factors including their educational background and expertise in a specific area of law, years of practice, what others in the area charge, etc.

Read the ISBA's public information pamphlet "Know Your Lawyer" for tips on establishing a good lawyer/client relationship.

<http://www.illinoislawyerfinder.com/publicinfo/knowyourlawyer.shtml>

Can a Notary Public (Notario Publicos) help me if I have a legal problem?

No, not in the United States.

In many countries notaries public have the authority to assist in legal matters; however, in the U.S. they do not.

In the U.S., notaries public are only allowed to witness signatures.

May non-lawyers help me with immigration services?

In most cases, no. Any person who offers to provide immigration services in Illinois must be either a licensed lawyer or a not-for-profit entity recognized by the Board of Immigration Appeals. Additionally, the entity must register as an Immigration Services Provider with the Office of the Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62701, and must be able to show verification of malpractice insurance or of a surety bond.

For additional information on immigration practices, visit the Illinois Attorney General's website at <http://www.ag.state.il.us/consumers/immigration.html>

Can I rely on legal information I find on the Internet?

The Internet is a wonderful tool, but it has its limits and should not be relied upon as a substitute for consultation with a lawyer about your specific situation. If you are looking for legal information be sure the website you are relying upon contains information written by a lawyer, based on Illinois law, and that the site has been recently updated. The law changes all of the time.

To be sure the information is accurate you may wish to consult with a lawyer. See the Illinois Lawyer Finder Service information below.

I heard that a mediator may be a good idea in some cases. Would advice they give be considered the unauthorized practice of law?

Mediators do not advise others on their legal rights. Instead, they try to help the parties reach an agreement.

A mediator is a neutral, impartial third person hired to assist the parties in reaching a voluntary, mutually satisfactory settlement of their dispute. If you and another party use a mediator to reach a settlement and if the matter is of a serious nature, you may wish to bring the settlement agreement to a lawyer to ensure fairness and legality.

What are the most common unauthorized practice of law complaints?

Family law: divorces, separations, child custody issues

Real estate: deed preparation, mortgage preparation, and transfer of property

Estates and wills: living trusts, durable powers of attorney

Bankruptcy proceedings

Additional information and resources:

Illinois laws:

Attorney Act, 705 ILCS 205/1

Corporation Practice of Law Prohibition Act, 705 ILCS 220

Consumer Fraud Act, 815 ILCS 505/2AA and 2BB

Visit the Illinois State Bar Association's public information website and read about general topics relating to Illinois law at

<http://www.illinoislawyerfinder.com/publicinfo/home.html>

The Illinois Legal Aid website will let you search for a legal service provider in your area. Search by county at <http://www.illinoislegalaid.org/>

The American Bar Association also has "Find Legal Help" on their website. This includes contact information for legal service providers by state, as well as consumer sources so you can do things yourself. Visit

<http://www.abanet.org/legalservices/findlegalhelp/main.cfm?id=IL>

The Illinois Attorney General's website offers extensive consumer information, and is one way you can submit a complaint when you find that someone is undertaking the unauthorized practice of law.

<http://www.illinoisattorneygeneral.gov/consumers/index.html>

Southern Illinois University has a "self help" webpage as well. Visit

<http://www.law.siu.edu/selfhelp/>

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