

**PENNSYLVANIA BAR ASSOCIATION**

**REPORT AND RECOMMENDATIONS**  
**OF THE**

**TASK FORCE ON STUDENT LOAN FORGIVENESS**  
**AND REPAYMENT ASSISTANCE**

**Introduction**

One of the most difficult challenges to the profession and to the attainment of justice for all citizens is the alarming rise of student loan debt, and its adverse impact upon the ability of law graduates to engage in public service legal employment. Many law students enter law school wanting to use their legal training to serve the public interest. However, in just three short years, as law students face the reality of graduating with enormous student loan debt coupled with the prospect of substantially lower wages in the public service sector, many talented students conclude that they have no choice but to abandon their original career aspirations.<sup>1</sup> The New York Times has reported that high tuition debts and low pay are draining public interest law.<sup>2</sup> This problem has become more acute with each passing year and is now widely recognized as a crisis of epidemic proportions without any clear remedy in sight. It is a problem that demands the leadership of the Pennsylvania Bar Association in formulating an effective remedy as all Pennsylvanians have a stake in attracting the best possible lawyers to public service in the Commonwealth.

More than fifteen years ago, the Pennsylvania Bar Association's first Task Force on Legal Services to the Needy delivered a formal report to the House of Delegates that called upon the Association to address the then-growing problem of student loan debt. The executive summary of the Task Force's Report, unanimously adopted by the House of Delegates on May 18, 1990, contained the following finding and recommendation:

[T]he costs of obtaining a legal education have escalated dramatically over the past decade; equally dramatic has been the widening of the gap between salaries offered to private attorneys

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<sup>1</sup> See Philip G. Schrag, The Federal Income-Contingent Repayment Option for Law Student Loans, 29 Hofstra L. Rev. 733, 736 (2001).

<sup>2</sup> See Jonathan D. Glater, High Tuition Debts and Low Pay Drain Public Interest Law, N.Y. Times, September 12, 2003 (noting that law students leave law school with an average debt of \$77,300, more than twice the sum they borrowed ten years ago) .

and the salaries offered to attorneys taking public service positions. The typical educational debt carried by a new attorney contemplating a public service position now exceeds \$30,000. As a result of their educational loan indebtedness, the heavy burden of monthly loan payments, and the modest salaries available in the public sector, many recent law school graduates have been precluded from seeking employment in public service law, and others have been forced to cut short their careers in public service law. While the disparity in salaries will remain the largest source of the problem, educational debts have a material and substantial effect on the choices made by younger attorneys. ***The Task Force recommends that the Pennsylvania Bar Association endorse the enactment of an educational loan repayment assistance law that would encourage talented law students to undertake lower-paying public service legal positions in Pennsylvania by paying at least part of their monthly educational loan obligations during the period of their public service.***<sup>3</sup>

In the decade and half that has passed since that finding and recommendation, the problem of student loan debt has substantially worsened. In 2001, the American Bar Association's then incoming president, Robert E. Hirshon, announced that staggering loan school debt faced by young lawyers would be one of the ABA's top priorities.<sup>4</sup> At his request, the ABA Board of Governors created the Commission on Loan Repayment and Forgiveness to study this problem and to offer proposed solutions for the profession and for society. The simple economics of loan indebtedness illustrates the depth of this problem. National studies conducted within the past five years document that starting salaries in private practice average \$80,000 while starting public interest law salaries average only \$34,000. The average American law school graduate owes close to \$80,000 in student loans, requiring monthly repayment amounts of \$1,000 or more. After deducting these payments, graduates who choose public interest work are left with only \$17,000 per year on which to live.<sup>5</sup> According to a recent national study completed by Equal Justice Works (formerly the National Association for Public Interest Law), large debt burdens prevent 66% of law school graduates from pursuing public interest jobs. In this study, a survey of 1,622 graduating law students from across the country revealed that 94% of respondents financed their law school educations with loans and 50% of the respondents expect to graduate with debts of \$75,000 or more.<sup>6</sup>

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<sup>3</sup> See Summary of Report and Recommendations, Pennsylvania Bar Association Task Force on Legal Services to the Needy, Fifth Finding and Recommendation, Adopted May 18, 1990 by the House of Delegates, at iv-v.

<sup>4</sup> James Podgers, Forging Ahead: Loan Repayment, Billable Hours Still Top Priorities, 88 A.B.A. J. 66 (2002).

<sup>5</sup> See Jane Easter Bahls, It's Payback Time for Public Interest Lawyers, Student Lawyer Magazine, September 2002 at 16.

<sup>6</sup> See Law School Debts Forcing Recruits to Private Sector, Chicago Tribune, November 18, 2002, at 14

The Committee on Legal Education and Admission to the Bar in New York also studied this problem and concluded that “the large amount of educational debt assumed by many law students has important effects on both the provision of public interest legal services and the quality of life of debt-burdened practicing attorneys.”<sup>7</sup> They found that law school debt constrains many law school graduates to pursue more remunerative private practice careers even though they desire to pursue public service careers. As one New York City bar association president noted,

The current economics of law practice not only burden bar and pro bono work, it also restrains the career options of younger attorneys. Many students graduating from law school face several tens of thousands of dollars of loans.... Some young lawyers end up in places they never intended to be and where they do not intend to stay. The costs of this unhappy situation are significant, as firms experience retention problems, able attorneys grow disillusioned and cynical about the profession, and government and other public service law offices are unable to meet their recruiting needs for diverse, able lawyers.<sup>8</sup>

The former labor secretary of the United States, Robert B. Reich, summarized the problem in the following manner: “The debt load carried by graduates is so large that most can’t possibly enter low-paying professions like ... legal services – even though they might want to. That’s bad for them, and it’s also bad for the country.”<sup>9</sup> For those who are able to enter public service employment, Reich warned that their choice should not require a vow of poverty.<sup>10</sup> The Legal Services Corporation in Washington has recently recognized the severity of this problem. It has initiated a modest national pilot program of loan assistance that responds to the reality that “as a result of skyrocketing costs of law school, legal services leaders are now facing a genuine human-resource crisis. Recent graduates are being forced to abandon their public interest career plans out of financial necessity, while young lawyers drowning in debt are leaving legal aid after brief tenures to take more lucrative jobs in the private sector.”<sup>11</sup> Unfortunately, no Pennsylvania legal services program was chosen to participate in LSC’s pilot program.

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(reporting on survey administered as part of a nationwide study being conducted by Equal Justice Works, the National Association for Law Placement, the National Legal Aid and Defender Association, and the Partnership for Public Service).

<sup>7</sup> See 58 *The Record of the Association of the Bar of the City of New York* Nos. 3-4 (2003) at 419.

<sup>8</sup> Evan A. Davis, *Work Demands All Our Time*, N.Y. L.J., May 1, 2001, at S3.

<sup>9</sup> Michelle Singletary, *Student Loan Idea Meant to Boost Professions*, *Washington Post*.

<sup>10</sup> See Edward P. Leibensperger, *Not A Panacea But An Essential Measure*, *Boston Bar Journal*, January/February 2006, at 2.

<sup>11</sup> See Cynthia L. Cooper, *Debt of Gratitude*, LSC’s *Equal Justice* (Spring 2005), at 26.

## **The Pennsylvania Bar Association's Task Force on Student Loan Forgiveness and Repayment Assistance**

In 2003, under the leadership of PBA Presidents Tim Carson and Tom Golden, the PBA created the current Task Force on Student Loan Forgiveness and Repayment Assistance. Modeled on the successful structure of the PBA's Task Force on Legal Services to the Needy (Part II), which secured the enactment of the Pennsylvania Access to Justice Act, a 23 person task force was appointed to study the problem of student loan debt and to formulate recommendations to the leadership of the Pennsylvania Bar Association. The Task Force is led by three co-chairs representing Pittsburgh, Harrisburg, and Philadelphia. The remainder of the Task Force is composed of representatives from the legislature, the governor's office, the Pennsylvania IOLTA program, local bar associations, legal services and public interest organizations, law schools, law firms, private foundations, PHEAA, and law students enrolled in Pennsylvania law schools. The full membership list of the Task Force appears at the end of this report.

Since its creation, the Task Force has assembled voluminous information about loan assistance efforts throughout the nation. It has met with representatives of the American Bar Association and has held meetings with representatives of PHEAA. It has obtained placement and student loan debt information from every Pennsylvania law school. It has conducted extensive surveys of legal aid lawyers throughout the Commonwealth and has obtained highly specific financial information from over 650 law students attending every law school in Pennsylvania. The Task Force has studied all of this information, and more, and has met many times in working groups and in plenary sessions to identify the most pressing problems in Pennsylvania related to student loan debt and to formulate recommendations that will not only address this staggering problem, but also place Pennsylvania as a leader in the nation on this issue.

At the November 2005 meeting of the House of Delegates, the Task Force delivered an oral interim report on its work and announced that it would present a final report, with recommendations directed to the leadership of the PBA, at the June 2006 meeting of the House of Delegates.

## **The National Perspective**

The American Bar Association appointed a Commission on Loan Repayment and Forgiveness in 2001 to study the law student debt burden issue and its impact upon law graduates' ability to serve their communities through public service employment. The ABA charged the Commission with the task of making recommendations on strategies to address this problem. After a two year

period of study and deliberation, the Commission issued a final report in 2003, entitled *Lifting the Burden: Law Student Debt as a Barrier to Public Service*, in which it reached the following conclusions:<sup>12</sup>

- Law school tuitions have skyrocketed.
- The vast majority of law students borrow to finance their legal education.
- Law students are borrowing increasingly larger sums to finance their legal education.
- Public service salaries have not kept pace with rising law student debt burdens or private sector salaries.
- High student debt bars many law graduates from pursuing public service careers.
- Many law graduates who take public service legal jobs must leave after they gain two to three years of experience.
- Public service employers report serious difficulty recruiting and retaining lawyers.
- The legal profession and society pay a severe price when law graduates are shut out from pursuing public service legal careers due to high educational debt burdens.
- Loan repayment assistance programs help law graduates take and remain in public service legal jobs.
- The number of LRAPs (loan repayment assistance programs) is limited.

Potential solutions to this problem are complex and involve many dimensions. The final report of the Commission includes a comprehensive package of recommendations directed at the ABA, the federal government, law schools, and the states. For example, the ABA is studying a little known national initiative that resulted in the adoption of the William D. Ford Federal Direct Loan Program in 1993. This federal law provides an income-contingent repayment option that allows federal direct loans to be forgiven after 25 years of low-income work. The ABA is urging legislative change to improve this option by permitting forgiveness at a point sooner than twenty-five years. The ABA Report also calls for federal legislation to create loan forgiveness/repayment assistance programs for public service lawyers under the Stafford Loan Program and to extend loan forgiveness to public service attorneys under the Perkins Loan Program.

While federal legislation, if adopted, would go a long way toward obtaining comprehensive, national relief for this difficult problem, there is much that law schools, public employers, and states can and should do to address this problem. The American Bar Association's Commission on Loan Repayment and Forgiveness has recommended needed changes directed at both the public and

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<sup>12</sup> See Final Report of ABA's Commission on Loan Repayment and Forgiveness (2003), at 10-11.

private sectors. Among the Commission's most important recommendations is a call for state governments to create, fund, and coordinate state loan repayment assistance programs (LRAPs), designed to permit law graduates to enter and remain in public service legal careers.<sup>13</sup> As part of a state's commitment to access to justice, the ABA Commission recommends that state governments work closely with bar associations, law schools, law students, public service employers, IOLTA programs, and other vital stakeholders to achieve this goal on the state level.

### **The Pennsylvania Experience**

The PBA Task Force made a concerted effort to study the impact of this crisis upon Pennsylvania. Over the past two years, the Task Force surveyed legal aid lawyers throughout all of Pennsylvania as well as over 650 law students at all Pennsylvania law schools. It obtained data from career planning and placement offices at Pennsylvania law schools and it reviewed information obtained from local bar associations and foundations. It assembled profiles of many public service lawyers and law students directly affected by this problem. Not surprisingly, the Task Force found that national findings on this problem applied with equal force to Pennsylvania.

## **PENNSYLVANIA SURVEY RESULTS**

### **INTRODUCTION**

Saddled with staggering law school debt taken to pay for their legal education, more and more of Pennsylvania's law school graduates are finding it hard if not impossible to work in low-paying public interest legal positions such as legal aid lawyers, public defenders, district attorneys and government attorneys. Of those who find a way to embark on a public interest legal career, some find themselves foregoing their dreams of public service after a few short years of practice due to huge monthly loan payments and increasing family responsibilities. These mortgage-size educational debt burdens prohibit some of the most dedicated lawyers from continuing with their legal aid or other public interest careers at the most inopportune time -- after they have sharpened their advocacy skills and gained the necessary experience to be most effective. Many newly-minted public interest attorneys report that they are only able to continue to practice public interest law due to the goodwill of others; most often supportive parents who offer free room and board or partners willing to underwrite the family's financial commitments. Other newly hired lawyers report they will only

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<sup>13</sup> ABA Commission on Loan Repayment and Forgiveness, *Lifting the Burden: Law Student Debt as a Barrier to Public Service*, Recommendations for States at 53.

be able to maintain their legal aid careers while their student loans are in forbearance.

## **THE IMPACT OF STUDENT DEBT ON THE PENNSYLVANIA LEGAL AID NETWORK**

Law school debt presents a major hurdle for both the Pennsylvania Legal Aid Network of civil legal aid programs and law school graduates considering a career in legal aid, making it difficult to fill vacancies and recruit promising new leaders. Some of Pennsylvania's legal services offices, especially those in the state's more rural areas, have reported difficulty in recruiting and retaining lawyers. In order to better define the scope and impact of educational debt on the civil legal aid system, the Pennsylvania Legal Aid Network in partnership with the Pennsylvania Bar Association's Task Force on Student Loan Forgiveness and Repayment Assistance undertook surveys to gather information from several key stakeholder groups, including civil legal aid attorneys, lawyers new to the profession, and law students. Results from these surveys confirmed many of the findings of the American Bar Association's Commission on Loan Repayment and Forgiveness and provided many details as to how law student debt impacts the provision of legal aid.

### **FINDINGS REGARDING LEGAL AID ATTORNEYS**

In late summer of 2005, a survey was distributed to 232 full-time legal aid attorneys working for legal aid programs in the Pennsylvania Legal Aid Network. 123 surveys were returned, resulting in a response rate of 53%. 57.7% of the respondents, or 71 current legal aid lawyers, indicated that they carried law school debt. The average student loan debt obligation of this group of legal aid attorneys is \$68,740 with individual debt obligations ranging from just under \$10,000 to over \$130,000. 65.4% of these respondents began their legal aid career with law school debt while 34.6% of the survey respondents began their legal aid career without any educational debt. Of the respondents who retired their educational debt burdens, 84.6% had less than \$40,000 in school debt. There were 14 respondents who benefited at one time from a law school loan repayment assistance program and 9 who identified a loan repayment assistance benefit derived from an employer run program.

Given the wide range of responses to this initial survey and the desire to better understand the impact of law school debt on individual legal aid attorneys, a subsequent effort was undertaken to gather information from legal aid attorneys with current law school debt. Survey information was gathered from 66 legal aid attorneys with educational debt. These attorneys were employed throughout the state and the majority (68%) had worked for legal services for 5 years or less. The median debt burden of legal aid attorneys is \$63,000. The median monthly payment is \$372 and monthly payments amongst this group of legal aid attorneys range from \$79 per month to \$1,200 per month. It is

important to note that the average Pennsylvania Legal Aid Network lawyer starting salary in 2004 was \$30,895. Numerous respondents to this survey indicated that one financial crisis such as a large car or household repair would necessitate a move to a higher paying job in the private sector. Survey data reports specific examples of current staff who are only remitting interest payments on their student loan debts thereby increasing the likelihood that these staff members will eventually have to move on to another career. Several respondents offered to share their personal stories as to the many ways large education debt burdens have impacted their career and/or lifestyle choices.

## **FINDINGS REGARDING LAWYERS NEW TO THE PROFESSION**

Efforts were also undertaken to reach out to lawyers new to the profession, regardless of their current employment. Data was obtained from 93 individual attorneys. 65.6% of the respondents have practiced for less than 1 year and 23.7% have practiced from one to five years. 96.8% of survey respondents indicated they borrowed money to finance their legal education and still carry an educational debt burden. The survey elicited student loan indebtedness in monetary ranges that were so specific, or exact, that precise amounts of educational debt levels were not obtained from this group of respondents. However, survey findings indicate law school debt burdens in excess of \$70,000 by 72.4% of the respondents. Interestingly, 16.2% of the respondents reported educational debt in excess of \$130,000. When asked the question, "Did the amount of law school debt you incurred influence your job choice?" 26 individuals responded affirmatively. Many respondents cited law school debt burdens as the driving force behind pursuing job opportunities with large law firms and did not consider the public interest legal professional as a viable option.

## **FINDINGS REGARDING LAW STUDENTS**

The PBA Task Force on Loan Forgiveness, with the assistance of the Pennsylvania Legal Aid Network, looked to obtain specific information from current law students concerning the scope and impact of law school debt on future attorneys. In cooperation with the law schools at Penn State Dickinson, Duquesne University, Temple, Penn, University of Pittsburgh, Villanova University, and Widener University, 661 current law students were surveyed. 459 current law students, or 69.4%, indicated that they planned to practice law in Pennsylvania. 624 current law students, or 94.7% of the survey respondents, indicated that they will leave law school with an educational debt burden.

The detailed survey of these Pennsylvania law students found that they will leave law school with an average debt burden of \$98,324, a median debt burden of \$100,000, and a range of total debt burden from \$10,000 to \$225,000.

Nearly one-third of the survey respondents in this group indicated that they did not know how much their monthly student loan payment would amount to. However, 486 respondents (77.9%) indicated that the amount of law school debt they incurred would influence their job choice. Numerous respondents indicated a preference to work in the public interest sector, but opted to pursue opportunities with large law firms. The following is a typical response when respondents were asked to cite an example of how law school debt burdens may impact their career:

*“My law school debt will most definitely impact my legal career. I never went to law school with the intention of working at a big firm. However, as my student loans accumulate it seems all but certain that I will have to take a big firm job for several years. There is such a massive disparity between salaries in public interest/government jobs and firm jobs that I can't imagine how I could possibly pursue a public interest/government career and pay off my student loans.”*

– Law Student Survey Respondent

### **KEY SURVEY FINDINGS SUPPORTING THE CONCLUSIONS CONTAINED IN THE FINAL REPORT OF THE AMERICAN BAR ASSOCIATION'S COMMISSION ON LOAN REPAYMENT AND FORGIVENESS**

Surveying undertaken in efforts to determine the impact and scope law school debt has on Pennsylvania's new attorneys reaffirmed many of the conclusions of the American Bar Association's Commission on Loan Repayment and Forgiveness. The surveying also provided Pennsylvania-specific data. Restated below are several of the conclusions drawn from the American Bar Association's Commission on Loan Repayment and Forgiveness Final Report, complimented with data mined from recent surveying efforts in Pennsylvania.

- **The vast majority of law students borrow to finance their legal education.** 96.8% of Pennsylvania law students surveyed indicated that they borrowed to finance their legal education.
- **Law students are borrowing increasingly larger sums to finance their legal education.** The Pennsylvania Bar Association's original Task Force on Legal Services to the Needy reported in 1990 that “the typical education debt carried by a new attorney contemplating a public service position now exceeds \$30,000.” The average debt burden of current law students in 2006 is \$98,324, with a range of total student debt from \$10,000 to \$225,000.
- **High student debt bars many law school graduates from pursuing public interest careers.** A majority of law school students (77.9%) and a

strong showing by attorneys new to the profession indicate that law school debt burdens have already impacted, or will impact career options.

- **Some law school graduates who take public service legal jobs must leave after they gain two to three years of experience.** The Task Force believes that the public interest suffers when some civil legal aid attorneys with large debt burdens report that long-term employment with legal aid is not an option due to increasing family responsibilities, expiring loan deferments, etc.

## **Recommendations of the Task Force**

After careful study of the alarming rise of student loan debt in Pennsylvania and its adverse impact upon the public interest, and after review of efforts undertaken throughout the nation to combat this serious problem, The Task Force on Student Loan Forgiveness and Repayment Assistance recommends that the Pennsylvania Bar Association approve the following recommendations and advocate for their adoption in Pennsylvania.

### **I. The Task Force recommends that the Pennsylvania Bar Association endorse the establishment of a statewide Loan Repayment Assistance Program (LRAP) designed to enable law graduates to enter into and remain in public service employment in Pennsylvania.**

The final report of the American Bar Association's Commission on Loan Repayment and Assistance urged states, as part of their commitment to access to justice, to create state loan repayment assistance programs. The information obtained and studied by the Task Force confirms that such a program is very much needed in Pennsylvania.

Loan repayment assistance programs are generally structured to provide loans, usually annually, to qualified lawyers who are employed by eligible public service organizations. The loans are forgiven after the qualified lawyer successfully completes a specified period of time of employment with the public service organization. The LRAP allows the public service organization to provide relief to the most affected qualified lawyers (those with the most debt) without impacting the wage structure of the organization. As of 2006, fourteen states have statewide student loan repayment assistance programs for law graduates engaged in public interest employment.<sup>14</sup>

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<sup>14</sup> Arizona, Florida, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New York, North Carolina, Texas, and Washington.

The Task Force urges the Pennsylvania Bar Association to lead the way in having Pennsylvania become the fifteenth state to establish a statewide loan repayment assistance program.

**II. The Task Force recommends that the Pennsylvania Bar Association endorse and advocate for the enactment of state legislation authorizing the Pennsylvania Higher Education Assistance Agency (PHEAA) to administer a statewide loan repayment assistance program for law graduates engaged in qualifying public service employment in Pennsylvania.**

The Task Force believes that the best entity to administer a statewide loan repayment assistance program is the Pennsylvania Higher Education Assistance Agency. PHEAA has substantial expertise and financial resources devoted to administering loan assistance programs and the Task Force has met with representatives of PHEAA to explore adding a public service lawyers program to its mandate. To go forward, the General Assembly will need to enact authorizing legislation for this purpose. The Task Force, with assistance from legislators who serve on the Task Force and from legislative specialists at the Pennsylvania Bar Association, has drafted proposed legislation that would accomplish this purpose.

The Task Force recommends that the Pennsylvania Bar Association approve this proposed legislation and advocate for its enactment, or for substantially similar legislation intended to accomplish these goals.<sup>15</sup>

The proposed legislation is as follows:

AN ACT

Establishing the Public Service Lawyers Loan Repayment Assistance Program for residents of this Commonwealth who are law school graduates and who have been hired and are employed by an organization that provides pro bono civil legal assistance to low income residents or a State or local government agency that prosecutes criminal defendants or defends indigent criminal defendants.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

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<sup>15</sup> The primary purpose of this report and recommendation is to create a statewide loan repayment assistance program. In the event that authorizing legislation for PHEAA to administer such a program is not enacted, or for any other reason PHEAA is unable or unwilling to act, this recommendation implicitly authorizes the Pennsylvania Bar Association to advocate for the substitution of an appropriate alternative organization or agency to administer a statewide loan repayment assistance program.

Section 1. Short title.

This act shall be known and may be cited as the Public Service Lawyers Loan Repayment Assistance Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agency.” The Pennsylvania Higher Education Assistance Agency.

“Eligible organization.” Organizations that are eligible to participate in the program are limited to the following:

(1) An organization that is incorporated in Pennsylvania, exempt from federal taxes under 501(c)(3), or any successor provisions of the Internal Revenue Code, which operates within the Commonwealth for the primary purpose of providing civil legal services without charge, and which operates to provide such civil legal services to eligible clients and victims of abuse under contract or subcontract with the Department of Public Welfare for the expenditure of funds appropriated by the General Assembly for the provision of legal services, or an organization that is incorporated in Pennsylvania, exempt from federal taxes under section 501(c)(3), or any successor provisions of the Internal Revenue Code, that is eligible for grants from the IOLTA board, or a state or local county bar foundation, and has the primary purpose of providing civil legal services without charge for the indigent and the disadvantaged.

(2) An agency of the State or local government, or an organization that is incorporated in Pennsylvania and is exempt from federal taxes under section 501(c)(3) or any successor provisions of the Internal Revenue Code, whose primary mission is to prosecute criminal defendants or to provide legal assistance for indigent criminal defendants.

“IOLTA board.” The Pennsylvania Interest on Lawyers Trust Account Board.

“Program.” The Public Service Lawyers Loan Repayment Assistance Program established under section 3.

“Qualified applicant.” A resident of this Commonwealth who is a law school graduate and who has been hired and is employed by an eligible organization.

Section 3. Program.

(a) Establishment.--The Public Service Lawyers Loan Repayment Assistance Program is hereby established. The agency shall administer the program.

(b) Nature of program.--For each year that a qualified applicant is employed by an eligible organization, the agency may provide funding or forgive a proportional part of the applicant’s student loan so that the loan may be partially or entirely forgiven.

(c) Payments.--Based on the amount of funding available, the agency shall determine for each year the proportional amount that that may be forgiven

in any one year per qualified applicant. The agency also shall establish the amount that may be forgiven in total over the lifetime of any one qualified applicant. The agency shall establish procedures for making payments to qualified applicants.

#### Section 4. Qualifications for loan forgiveness awards.

(a) Application.--The agency shall establish procedures for qualified applicants to apply and be approved for participation in the program.

(b) Employment.--Recipients of loan forgiveness awards shall be employees of an eligible organization who maintain satisfactory employment with the organization.

(c) Documentation.--The agency may require qualified applicants who are participating in the program to submit documentation in order to maintain continued eligibility for the program.

#### Section 5. Funding.

(a) Sources of funding for awards.--Loan forgiveness awards may be made to the extent that funds are appropriated by the General Assembly or made available from other sources for this purpose.

(b) Limitation.--Funds appropriated by the General Assembly shall be used solely for qualified applicants employed by an eligible organization.

#### Section 6. Regulations.

The agency shall adopt regulations, policies and procedures as are necessary to carry out the provisions of this act.

#### Section 7. Effective date.

This act shall take effect in 60 days.

### **III. The Task Force recommends that the Pennsylvania Bar Association approve and advocate for a comprehensive statewide loan repayment assistance program that is carefully structured to respond effectively to the needs of law graduates entering into or remaining in qualifying public service employment in Pennsylvania.**

The Task Force has carefully studied successful loan repayment assistance programs in other states and at various law schools. In those states that operate loan repayment assistance programs, maximum annual grants<sup>16</sup> to eligible recipients range from a low of \$2,500<sup>17</sup> to a high of \$10,000.<sup>18</sup> Most

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<sup>16</sup> In most loan repayment assistance programs, a grant to a qualified recipient is structured as a loan that is forgiven if the recipient satisfies all loan requirements, including completing a specified period of time of public service employment at a qualified organization. As used in this report, the term “grant” is intended to have this commonly understood meaning.

<sup>17</sup> Montana.

states provide maximum annual grants in the \$5,000 to \$7,500 range.<sup>19</sup> In addition, most states define eligible loans to include law school, government and private loans. Many also include bar examination loans, undergraduate education loans, and post-graduate education loans.<sup>20</sup> Eligible employment includes civil legal aid, and in many states nonprofit organizations, prosecutors, public defenders, and government service.<sup>21</sup>

Based upon this study and after much discussion and careful deliberation, the Task Force recommends that the Pennsylvania Bar Association approve and advocate for a comprehensive program that is structured as outlined below, or that is substantially similar to that described in this recommendation.

## **PA - LRAP**

### **A. Overview of the Pennsylvania (Public Service Lawyers') Loan Repayment Assistance Program (PA-LRAP)**

Conceptually, the PA-LRAP would be structured to have categories of eligible public service attorney employment categories. General eligibility criteria apply to all of the categories. General eligibility criteria, such as the annual salary and annual eligible debt service, may be adjusted from time to time by the administering agency, based upon inflationary and other considerations. Organizations and entities that employ eligible public service attorneys would have to pay an annual fee based upon the number of participating eligible attorneys in their employment that are recipients of loan repayment assistance from the statewide program. Each category of public service would have loan assistance to the extent funding is dedicated to that category and is available.

Awards to eligible attorneys will be no less than \$1,000 and up to \$6,000 for each year of employment at a qualifying public service employer. There is a maximum life time award to a participating individual of \$60,000.

Awards above the minimum \$1,000 will be determined according to a formula established by the Awards Committee of the administering agency. It is intended that the Awards Committee include, in addition to members from the administering agency, representatives of at least the following: state and local bar associations, employers of eligible public service attorneys, IOLTA,

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<sup>18</sup> Kentucky.

<sup>19</sup> Arizona, Florida, Maine, New York, Maryland, North Carolina, Washington.

<sup>20</sup> Some states, such as New York, Minnesota, and Missouri, require that non-law school loans be for joint legal/graduate school degrees.

<sup>21</sup> For example, Texas supports law graduates who work for a nonprofit organization that receives funding from the Texas Equal Access to Justice Foundation or that provide civil legal aid to the poor. Arizona and Florida include employment in IOLTA-funded grantees. Maryland includes state and local government employees, but excludes judicial law clerks.

Pennsylvania Legal Aid Network, Inc., law schools, and the legislature. Annual grants will be dependent upon the application of the formula established by the Awards Committee and the eligible attorney's amount of annual eligible debt service and income, and the availability of funds for the eligible attorney's category.

The annual and life time PA-LRAP award limits may be adjusted from time to time at the beginning of the program year by the administering agency based upon inflationary educational and other cost increases as it may determine appropriate.

Loan assistance will be forgiven annually upon satisfactory completion of a full year of employment with the participating public service organization. Partial loan forgiveness is allowed upon termination of employment within a program year if qualifying conditions are met.

The program year is January through December.

#### **B. Categories of Eligible Public Service Attorney Employment.**

Category 1 Civil Legal Assistance for the Indigent and the Disadvantaged.

An organization that is incorporated in Pennsylvania, exempt from federal taxes under 501(3), or any successor provisions of the Internal Revenue Code, which operates within the Commonwealth for the primary purpose of providing civil legal services without charge, and which operates to provide such civil legal services to eligible clients and victims of abuse under contract or subcontract with the Department of Public Welfare for the expenditure of funds appropriated by the General Assembly for the provision of legal services, or an organization that is incorporated in Pennsylvania, exempt from federal taxes under section 501(c)(3), or any successor provisions of the Internal Revenue Code, that is eligible for grants from the IOLTA board, or a state or local county bar foundation, and has the primary purpose of providing civil legal services without charge for the indigent and the disadvantaged.

Category 2 Criminal Prosecution and Defense.

An agency of the State or local government, or an organization that is incorporated in Pennsylvania and is exempt from federal taxes under section 501(c)(3) or any successor provisions of the Internal Revenue Code, whose primary mission is to prosecute criminal defendants or to provide legal assistance for indigent criminal defendants. Elected government officials are specifically excluded from this category even if they would otherwise meet the category qualifications.

An application must be developed for each category requiring the disclosure of information which demonstrates that the employing organization meets the specific criteria and requirements of each category.

The administering agency may expand the number of categories should additional dedicated funding sources be developed for such new categories.

### **C. Requirements for Participating Public Service Organizations (PSO).**

A PSO is an organization that meets the requirements of one of the eligible PA-LRAP categories of public service attorney employment. Pesos must demonstrate they meet category requirements through completion of an informational application and payment of an annual membership fee. The annual membership fee is equal to \$1,000 for each participating eligible attorney who is a recipient of loan repayment assistance from the statewide program.

Administrative expenses must be covered for the administering agency, the membership fee per participating eligible attorney would be adjusted higher than the minimum award as necessary to cover those expenses.

### **D. General Requirements for Participating Attorney (PA).**

PAs who will receive student loan assistance (Participating Attorneys - PA) must meet the following requirements:

(1) The PA must be employed by the participating public service organization as of the start of the program year;

(2) The PA must complete an annual application for student loan assistance that demonstrates:

- a. The PA has outstanding annual debt service of at least \$3,000 of eligible undergraduate and law school educational loans;
- b. The PA must disclose their participation in any other loan repayment assistance or grant programs for which they are eligible and that eligibility will be considered in determination of the PA-LRAP award;
- c. The PA must be in good standing with the PSO;
- d. The PA must be admitted to Pennsylvania practice or allowed to practice in Pennsylvania by special rule;
- e. The PA's total annual income from all sources does not exceed \$75,000, or such reasonable limits as the administering agency may establish; and
- f. If accepted, the PA must sign a Promissory Note and a Loan Agreement.

(3) The PA must demonstrate his/her eligible undergraduate and law school loans are in good repayment status with the lenders.

(4) The PA must provide any documentation of loan balances and loan status which may be required or requested.

The administering agency may adjust the annual income threshold at the beginning of a program year to consider income increases due to general inflationary and other factors.

### **E. Types of Eligible Loans.**

Eligible loans incurred for assistance toward undergraduate and law school expenses, on the condition they can be verified through a lending institution are:

- (1) Federal Stafford (Subsidized/Unsubsidized)
- (2) Supplemental Loans for Students (SLS)
- (3) Federal Perkins
- (4) Undergraduate and Law Access Loans
- (5) Undergraduate and Law Student Loans
- (6) Undergraduate and Law School-based
- (7) Other educational (e.g. PHEAA, Nellie Mae, Sallie Mae, TERI)
- (8) Bar Exam/Bar study loans.

Ineligible loans are:

- (1) Non-undergraduate or non-law school educational loans
- (2) Non-educational loans
- (3) Educational or non-educational loans from family members
- (4) Educational or non-educational commingled loans with spouses or partners or parents
- (5) Credit card loans
- (6) Loans for graduate school or doctorate programs.

### **F. Loan and Financial Information Required.**

The application requires disclosure and certification of information and balances of eligible loan debt service.

If warranted the administering agency may adjust the minimum outstanding annual debt service amount for eligibility at the beginning of each program year.

### **G. Adjustments to Eligibility and Payment Amounts.**

PAs must notify the administering agency of significant changes in their application information within 30 days of learning of such errors, omissions or changes.

If a determination of an overpayment is made, the administering agency may at its discretion require reimbursement of the overpayment.

#### **H. Use of PA-LRAP Funds.**

All PA-LRAP funds must be applied to eligible educational loan payments.

In the event the amount of PA-LRAP funds exceeds the annual debt service on eligible educational loans (defined above), the excess PA-LRAP funds may be retained by the PA and applied to eligible educational loans in the subsequent year, at the discretion of the administering agency. However, such excess funds must be disclosed promptly and in writing to the administering agency and the PA agrees to refund any excess funds upon the request of the administering agency.

Under no circumstances may the PA use PA-LRAP funds to defray living expenses or any debt other than eligible educational loans.

#### **I. Structure and Process for PA-LRAP Assistance.**

The minimum award to a PA will be \$1,000.

For purposes of determining the maximum award, the administering agency may take into account any other LRAP funds received by the PA when calculating an individual's annual debt service level.

All eligible PAs are ranked by the ratio of their annual eligible debt service amount to their annual income.

The rankings are stratified into two (or more if appropriate) groupings, the PAs with the highest ratio placed in the highest priority grouping. No bright line is identified as the cut off for the groupings. Rather, threshold point(s) should be determined based upon a review of the results and the exercise of discretion by the Awards Committee.

The highest priority grouping should receive the lower of the maximum PA-LRAP award of \$6,000 or the annual debt service amount. Should insufficient funds be available to fund a full \$6,000 award, the amount of funds available, after assuring that all eligible PAs can receive a \$1,000 award, should be divided equally among PAs in the highest priority grouping.

Other grouping(s) below the highest priority grouping could receive awards above the \$1,000 minimum based upon the amount of funds available.

In no event should an eligible PA receive less than a \$1,000 award.

PA-LRAP payments will be made at the beginning of the program year directly to the PA from the administering agency. The employer is not involved in the loan arrangement or the selection of participating attorneys for awards.

The administering agency will forgive each loan upon completion of a full year of employment from the effective date of the loan award.

Should a PA leave qualifying employment for compelling and critical reasons (e.g. illness, etc.) the loan will be forgiven corresponding to the proportion of the year the PA was in qualified employment.

Should the PA voluntarily quit employment for no compelling reason or is terminated with cause, and the PA is not employed immediately by another qualified PSO within 90 days, the entire amount of the loan plus interest will become due and owing at the discretion of the administering agency.

**IV. The Task Force recommends that the Pennsylvania Bar Association approve and advocate for a strong public-private partnership that will provide adequate, reliable, and recurring funding for a statewide loan repayment assistance program to assist law graduates employed in qualifying public service employment in Pennsylvania.**

The success of a loan repayment assistance program depends heavily upon the availability of adequate funding that is reliable and that can be counted upon year after year by law graduates engaged in public service employment or by law students considering public service employment. Programs that do not provide ample funding or that are inconsistent in the funding they provide do not accomplish the core purpose of encouraging law graduates to enter and remain in public service employment. In other words, programs that promise loan repayment assistance, but only provide partial assistance to the extent that funds may become available, enjoy only limited success.

The Task Force's study of statewide programs around the nation reveals that state loan assistance programs are funded by a variety of public and private sources, including state government,<sup>22</sup> interest on lawyers' trust account programs (IOLTA),<sup>23</sup> state bar foundations,<sup>24</sup> state bar associations,<sup>25</sup> law

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<sup>22</sup> Maryland, North Carolina.

<sup>23</sup> Arizona, Florida, Maine, Massachusetts, Minnesota, Montana, New Hampshire, and North Carolina.

<sup>24</sup> Minnesota, New York.

schools,<sup>26</sup> private foundations and donors,<sup>27</sup> public interest employers,<sup>28</sup> and several other funding mechanisms.<sup>29</sup> Some states have adopted statewide programs, but do not currently provide funding.<sup>30</sup> In addition, some county bar associations and foundations operate student loan repayment assistance programs or provide public interest law fellowships aimed at assisting law graduates to enter and remain in public service employment.<sup>31</sup>

The Task Force urges the Pennsylvania Bar Association to adopt the following recommendations that will enable it to advocate, with needed flexibility, for the establishment and promotion of a public-private partnership that is able to provide reliable, recurring funding for a Pennsylvania loan repayment assistance program. To insure that needed funds are obtained, the Task Force recommends that the Pennsylvania Bar Association call upon all of the primary stakeholders who have a direct interest in the success of a statewide loan repayment assistance program to provide financial participation in the following manner:

- a. State Government. The General Assembly should (i) provide a state appropriation dedicated to the start-up of a statewide loan repayment assistance program, either as part of authorizing legislation for the creation of such a program or separately through appropriations legislation, and (ii) devote a portion of funds that escheat to the Commonwealth each year to the support and maintenance of the statewide program.
- b. Pennsylvania Higher Education Assistance Agency and PHEAA Foundation. PHEAA should provide annual funding for the loan repayment assistance program from funds available to the agency, including from its one billion dollar public service commitment to the Commonwealth, and the PHEAA Foundation should provide annual funding as part of its charitable and educational priorities.
- c. Supreme Court of Pennsylvania. The Supreme Court of Pennsylvania should (i) establish and dedicate to a statewide loan repayment assistance program all *pro hac vice* funds that are derived annually from the imposition of a fee upon non-Pennsylvania lawyers seeking the privilege to appear in Pennsylvania courts on a case by case basis,

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<sup>25</sup> Texas, Washington.

<sup>26</sup> Minnesota, North Carolina.

<sup>27</sup> Minnesota, Missouri, New York.

<sup>28</sup> Florida, Maine.

<sup>29</sup> For example, the Minnesota loan repayment assistance program is funded in part by attorney registration fees. New York has imposed an add-on surcharge to its bar examination fee for the purpose of funding loan repayment assistance.

<sup>30</sup> Tennessee, California, Georgia.

<sup>31</sup> Allegheny County, Philadelphia County, San Francisco, Chicago, etc.

and (ii) impose an add-on fee of \$1.00 for each CLE credit obtained in Pennsylvania and dedicate all such funds to the statewide program.

- d. Pennsylvania Law Schools. All Pennsylvania law schools should participate in the statewide loan repayment assistance program, in addition to any loan repayment assistance program that law schools may operate on their own, by matching for each of their participating graduates the annual financial support of the public service employer to the statewide program.
- e. Pennsylvania Bar Foundation. The Pennsylvania Bar Foundation should adopt this statewide loan repayment assistance program as one of its charitable fundraising priorities and should actively seek financial support for this statewide program from the bar, corporations, private foundations, colleges and universities, individual donors, and other appropriate sources.
- f. Law Graduates. An add-on fee of \$100 should be imposed upon each applicant who applies to take the Pennsylvania Bar Examination and all such funds should be directed annually to the statewide loan repayment assistance program.
- g. Public Interest Employers. All public interest employers that participate in this statewide loan repayment assistance program should contribute an annual membership fee of \$1000 for each law graduate within its employ who is a recipient of loan repayment assistance from the statewide program.

The aggregate of some or all of these initiatives, with flexibility extended to the leadership of the Pennsylvania Bar Association to pursue those that are most promising, should be sufficient to provide adequate, reliable, and recurring funding that meets the purposes of the statewide loan repayment assistance program.

**V. The Task Force recommends that the Pennsylvania Bar Association strongly encourage each Pennsylvania law school to establish and maintain an effective and well-funded loan repayment assistance program, independent of this statewide program, that is designed to make public service legal employment financially feasible to its graduates, regardless of the state in which such graduates choose to pursue public service employment.**

The Task Force has proposed the creation of a statewide loan assistance program that will enable law graduates to enter into and remain in qualifying public service employment in Pennsylvania. Law schools can, and should, supplement these efforts by providing loan assistance to all of their graduates who pursue qualifying public service employment, not only in Pennsylvania but also throughout the country. In this way, law schools encourage all law students to seriously consider public service careers and they help to alleviate the financial demand placed upon scarce resources of statewide loan assistance programs in Pennsylvania and throughout the nation.

**VI. The Task Force recommends that the Pennsylvania Bar Association provide technical assistance and financial information to law schools, prospective and current law students, and law graduates by, among other things, serving as a depository for information related to financial planning, counseling, public interest fellowships, LRAPs, and other resources that are available to help students and law graduates enter into and remain in public service employment.**

The Task Force believes that the sharing of comprehensive financial information with students throughout Pennsylvania, at the earliest stage possible, is essential to achieving the goals of a statewide loan repayment assistance program. The Task Force found that there is uneven access to information across Pennsylvania that can be remedied by the provision of technical assistance resources that would be available to students at law schools and colleges and universities throughout the Commonwealth. The Pennsylvania Bar Association should take a leadership role in providing these needed technical services.

**VII. The Task Force recommends that the Pennsylvania Bar Association support federal legislation and efforts that advance the goals and recommendations of the Task Force.**

The Task Force recommends that the PBA support and advocate the adoption of federal legislation to advance the improvement of federal funding and favorable tax treatment of student loan programs and loan repayment assistance program (LRAP) awards.

Federal legislation could improve significantly our efforts to provide loan assistance to Pennsylvania attorneys. The final report of the American Bar Association's Commission on Loan Repayment and Assistance recommends legislation providing favorable tax treatment for loan assistance programs. The PBA should support federal legislative and related efforts that will increase funding to Pennsylvania LRAP programs or otherwise ease the educational loan burden currently experienced by Pennsylvania attorneys.

Therefore, the Task Force recommends the PBA encourage federal lawmakers to examine ways of providing program funding, tax relief or exemptions for loan payment and LRAP style programs.

## **Conclusion**

The Task Force on Student Loan Forgiveness and Repayment Assistance appreciates the thoughtful consideration of these recommendations. The Task Force believes strongly that the time has come for Pennsylvania to move forward in addressing the critical problem of staggering student loan debt that so adversely affects the ability of law graduates to enter into and remain in public service employment in Pennsylvania. As a matter of access to justice, the Pennsylvania Bar Association should take a leadership role in advocating for a strong, effective, and well-funded statewide loan repayment assistance program.

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