

The John R. Justice Prosecutors and Defenders Incentive Act

One of the greatest challenges facing our justice system today is the recruitment and retention of qualified public service attorneys. In the criminal justice system, where public safety and liberty are at stake in every case, prosecutors' and public defenders' offices are finding it very difficult to attract qualified attorneys and reduce staff turnover – in large part due to the staggering educational debt carried by recent law graduates. Ultimately, the reliability, fairness, and efficiency of the criminal justice system suffer.

Staggering Debt

- The vast majority of law students borrow to finance their education, and the rising cost of legal education imposes staggering debt.
- In 2002, 87 percent of law students borrowed to finance their legal education.
- According to the American Bar Association, members of the law school class of 2004 graduated with an average debt of \$66,810 for public schools and \$97,793 for private schools.

Lagging Salaries

- Public defender and prosecutor salaries have failed to keep pace with escalating education debt.
- According to the National Association for Law Placement, the median entry-level salary for public defenders in 2004 was \$39,000, and the median entry-level salary for state prosecutors was \$40,000.
- In the same year, the median salary for first-year associates in firms of 500 or more was \$95,000.

Barrier to Public Service

- As a result, lawyers carrying even the average educational debt load are effectively priced out of public service, and prosecutors' and public defenders' offices have serious difficulty recruiting and retaining attorneys.
- Student loan debt is consistently cited as the overwhelming reason why attorneys decline or leave positions as prosecutors and public defenders.
- According to a survey conducted by the National Association for Law Placement, law school debt prevented two-thirds of law student respondents from considering a public service career.
- As the Senate Judiciary Committee has recognized, "The barrier is greatest for low-income students with the highest loans, consisting disproportionately of minorities." (Senate Rpt. 107-315).

Impairing the Criminal Justice System

- Public defenders' and prosecutors' offices have difficulty attracting the best-qualified candidates and some offices have vacancies that they cannot fill.
- Large debt combined with low salaries means that turnover in these offices is extremely high, leaving the justice system operating with a dearth of experienced attorneys.
- Frequent staff turnover also creates inefficiency in the justice system, as cases are delayed and offices must constantly recruit and train new staff.
- Another consequence is that less experienced, less qualified attorneys are forced to handle complicated cases, with the accused and the community suffering the consequences.

The John R. Justice Prosecutors and Defenders Incentive Act

- The John R. Justice Prosecutors and Defenders Incentive Act (the “Act”) represents a bipartisan effort to encourage qualified attorneys to choose careers as prosecutors and public defenders and to continue in that service.
- It would provide up to a yearly maximum of \$10,000 in loan repayment for state and federal public defenders and state prosecutors. The aggregate maximum is \$60,000.
- It would cover loans made, insured, or guaranteed under the Higher Education Act of 1965, including consolidation loans. In addition, the Act makes available to federal public defenders the same Perkins loan forgiveness currently available to federal prosecutors.
- Repayment benefits would be available (on a first-come, first-served basis) to borrowers who agree to remain employed as prosecutors or public defenders for at least 3 years.

Strengthening the Justice System

- “Nowhere in public service is it more important to encourage the recruitment of competent lawyers and the retention of experienced ones than in the disciplines of prosecution and public defense, where people’s lives and liberty hang in the balance.” (Senate Rpt. 107-315).
- A reliable, fair, and efficient justice system requires competent attorneys representing the interests of government, protecting the rights of individuals, and ensuring that mistakes are not made.
- Skilled lawyers in the courtroom are the best safeguard against wrongful convictions of innocent people – “the most unthinkable corruption of a justice system that is held out as a model to the world.” (Senate Rpt. 107-315).
- The Department of Justice Office of Justice Programs has concluded that loan forgiveness is “an important means of reducing staff turnover and avoiding related recruitment/training costs and disruptions to the office and case processing.” (Improving Criminal Justice System through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense, NCJ 181344, February 1999).

A Recognized Way to Encourage Public Service

- Congress had recognized that loan forgiveness programs are an important mechanism for recruiting and retaining qualified workers in critical, public service jobs.
- Similar programs have been established for teachers, childcare providers, law enforcement and corrections officers, nurses, and medical technicians.
- Prosecutors and public defenders are essential to the operation of our justice system and should be included among this group of valued public servants.