



**Written testimony of Bonnie Hoffman, Senior Director of Public Defense Reform and Training
on behalf of the National Association of Criminal Defense Lawyers (NACDL)
To the Delaware House Judiciary Committee
In Support of HB 380: The Public Attorney Student Loan Repayment Program**

I write on behalf of the National Association of Criminal Defense Lawyers (NACDL) to express support for [House Bill 380](#), which establishes a Public Attorney Student Loan Repayment Program for attorneys employed by the State of Delaware who are providing critically needed services to the state's most vulnerable individuals. Providing financial assistance to help qualified applicants repay some of their student loan debt, is critical to the recruitment and retention of public defense lawyers, especially attorneys of color who face a disproportionate level of law school debt.

NACDL is the preeminent organization advancing the mission of the criminal defense bar to ensure justice and due process for persons accused of crime or wrongdoing. NACDL's nearly 10,000 members (40,000 with state affiliate members) include private criminal defense lawyers, public defenders, military defense counsel, law professors and judges committed to preserving fairness and promoting a rational and humane criminal justice system. Crucial to this mission are NACDL's efforts to identify and reform flaws and inequities in the criminal legal system, and specifically address systemic racism and its impact on the administration of justice.

Effective public defense systems protect against wrongful convictions and excessive punishments; they serve as a meaningful check on government overreach and abuses; and encourage confidence in the fairness of our legal process. However, public defense systems can only fulfill this vital function if they are able to recruit, and most importantly retain, skilled attorneys.

Today, virtually every part of our nation's state and local public defense systems are in crisis. Staffing and resources are stretched thin. Overloaded public defenders, working for low pay and facing large student debt, are being driven to their breaking point. Low compensation rates, especially when compared to private attorneys, coupled with crippling law school debt, makes it difficult for lawyers to work in these positions long-term while simultaneously paying off their debt. Moreover, their massive student loan debt becomes a barrier to their getting married, buying a home or starting a family, thus preventing them from planting roots and becoming more of a part of their local community.

The resulting shortage of public defense lawyers harms the entire community. Difficulties recruiting attorneys to public defense lead to attorney shortages, which either means there is no attorney available to handle a case or that the attorney who handles the case has too large a workload to effectively and timely be prepared. Both situations have substantial consequences for the community's quality of justice.

Underfunded and understaffed public defense systems mean those accused of crimes face additional weeks and even months of pre-trial detention, while waiting for an attorney to be assigned to their case; victims and witnesses waiting longer for cases to be resolved, restitution to be paid, and property to be returned; and communities paying for extended, unnecessary periods of detention. Even more fundamental, delaying cases



heightens the risk of incorrect outcomes. When cases are delayed eyewitness memories fade or are altered by external information; critical defense evidence such as video recordings and social media posts are lost and cannot be recovered; important witnesses move resulting in case dismissals; and mounting pressures to plead guilty becomes a way to bring resolution to a case, resulting in unwarranted convictions.

In addition to facing a shortage of lawyers, poor compensation drives experienced counsel out of public service. Overburdened lawyers who battle in the trenches for years face harmful burnout, which is exacerbated by the stress of poor compensation and high debt. They face difficult decisions about whether to continue a career in public service or whether to buy a home or start a family, as they cannot afford to do both while saddled with decades of student loan debt. The loss of experienced counsel increases the risks of erroneous convictions, excessive sentences, and extended case delays that occur when inexperienced attorneys are forced to handle cases they are not prepared for.

Providing a mechanism to help public defense attorneys repay their student loans will improve both recruitment and retention of skilled attorneys who are committed to providing effective and zealous representation to those who are accused of crimes.

Ninety percent of law school graduates borrow money to earn their law degrees. The level of debt carried by young lawyers frequently amounts to over \$100,000¹ but is even higher for young Black lawyers. According to research by the American Bar Association, Black lawyers 32 years old or younger represented the largest percentage of individuals with educational debt of \$200,000 or more.²

The 6th Amendment guarantees that every person, regardless of their charges or resources, has a skilled, well-resourced, and zealous advocate by their side when they stand accused of a crime. This passage of this legislation is a critical reform that will better ensure that public defense attorneys are able to repay their student debt so that the state of Delaware is able to attract and retain the most qualified attorneys.

To help Delaware move closer to the nation's promise that all who face the accusation of the government will have a zealous, capable, and committed advocate by their side, NACDL urges members of the committee to vote in favor of HB 380.

¹ According to a recent ABA survey, among young lawyers (32 years old or younger) who had school debt, their median school debt was \$160,000. Groothius, A., et al. (2021). Student Debt: The Holistic Impact on Young Lawyers [Review of Student Debt: The Holistic Impact on Young Lawyers]. American Bar Association.

² Groothius, A., et al. (2021). Student Debt: The Holistic Impact on Young Lawyers [Review of Student Debt: The Holistic Impact on Young Lawyers]. American Bar Association.
https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/2021-student-loan-survey.pdf