

4270

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. BRENNAN, ROSENTHAL, ORTIZ, CAHILL, JAFFEE, WRIGHT
-- read once and referred to the Committee on Judiciary

AN ACT to amend the state finance law and the judiciary law, in relation
to establishing a fund to assist public service attorneys practicing
public service law to repay their student loans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "public
2 interest legal services loan assistance act."
3 S 2. Declaration of policy and legislative intent. The legislature
4 reaffirms that the efficient and effective provision of high-quality
5 legal services on behalf of the state, its political subdivisions and
6 the populations therein depends on competent, dedicated attorneys making
7 a long-term commitment to public-service work, whether as prosecutors,
8 public defenders or other indigent defense attorneys, civil legal
9 services attorneys, or the equivalent. The legislature finds, however,
10 that because these attorneys often carry significant and increasing
11 student loan debt burdens and have grave difficulty in repaying such
12 debts on the relatively low salaries paid by most public interest posi-
13 tions, many of these attorneys are being forced to leave public service.
14 The loss of so many capable public interest attorneys, often at the very
15 time they have achieved sufficient training and experience to handle the
16 most complex matters of public concern, has had an adverse impact on
17 government generally and reduced the capacity of the criminal and civil
18 justice systems to provide the consistently high-quality legal services
19 the people of New York state deserve. The legislature finds that the
20 difficulty of attracting and retaining well-trained public interest
21 lawyers due to student loan debt frustrates the achievement of important
22 constitutional and statutory policy objectives, increases the cost of
23 state and local government, and diminishes public confidence in the
24 criminal and civil justice systems. The legislature therefore recognizes

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD01709-01-5

the value of retaining these seasoned public servants in public interest positions and finds that it is in the public interest to provide financial assistance to help these attorneys repay their student loans. Accordingly, the legislature hereby establishes the public interest legal services loan assistance fund.

S 3. The state finance law is amended by adding a new section 99-w to read as follows:

S 99-W. PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE CHIEF ADMINISTRATOR OF THE COURTS A SPECIAL FUND TO BE KNOWN AS THE "PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND" OF THE STATE OF NEW YORK.

2. THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND SHALL CONSIST OF THE MONIES DEPOSITED THEREIN PURSUANT TO SUBDIVISION ONE OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE JUDICIARY LAW, AND ALL MONIES DEPOSITED THEREIN OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW, INCLUDING VOLUNTARY CONTRIBUTIONS, TOGETHER WITH ANY INTEREST ACCRUED THEREON.

3. ALL MONIES IN THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND SHALL BE AVAILABLE, SUBJECT TO APPROPRIATIONS, FOR THE PAYMENT OF SERVICES AND EXPENSES AS PROVIDED FOR IN THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE PROGRAM AUTHORIZED BY ARTICLE FIFTEEN-A OF THE JUDICIARY LAW, INCLUDING THE COSTS TO THE UNIFIED COURT SYSTEM INCURRED IN THE ADMINISTRATION OF SUCH PROGRAM.

4. ALL PAYMENTS OF MONEY FROM THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND SHALL BE MADE ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE CHIEF ADMINISTRATOR OF THE COURTS.

S 4. Subdivision 1 of section 465 of the judiciary law, as amended by section 6 of part K of chapter 56 of the laws of 2010, is amended to read as follows:

1. Every person applying for examination for admission to practice as an attorney and counselor at law shall pay a fee of [two] FOUR hundred [fifty] dollars, or seven hundred fifty dollars if, to qualify to take the bar examination, the person must satisfy the rules of the court of appeals for the admission of attorneys and counselors at law governing the study of law in a foreign country, for each taking or retaking of the examination, or if dispensation has been received from the taking of the examination, [four] FIVE hundred dollars for credential review for admission on motion. All such fees shall be paid into the state treasury in the manner provided by section one hundred twenty-one of the state finance law, PROVIDED THAT ONE HUNDRED FIFTY DOLLARS OF EACH FEE FOR THE TAKING OR RETAKING OF THE EXAMINATION AND ONE HUNDRED DOLLARS OF EACH FEE FOR CREDENTIAL REVIEW FOR ADMISSION ON MOTION SHALL BE DEPOSITED IN THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-W OF THE STATE FINANCE LAW.

S 5. The judiciary law is amended by adding a new article 15-A to read as follows:

ARTICLE 15-A

PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE PROGRAM
SECTION 499-A. DEFINITIONS.

499-B. PROGRAM ADMINISTRATION.

499-C. PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE.

S 499-A. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "ELIGIBLE ATTORNEY" MEANS AN ATTORNEY ADMITTED TO PRACTICE LAW IN NEW YORK STATE WHO DURING THE STATE FISCAL YEAR FOR WHICH SUCH ATTORNEY

1 SEEKS REIMBURSEMENT FOR THE PAYMENT OF A STUDENT LOAN EXPENSE WAS
2 EMPLOYED EITHER AS A PROSECUTOR, AN INDIGENT DEFENSE ATTORNEY, OR A
3 CIVIL LEGAL SERVICES ATTORNEY; AND WHO HAS BOTH HELD A DEGREE FROM A LAW
4 SCHOOL FOR NOT MORE THAN ELEVEN YEARS AND WAS WITHIN THE ELIGIBLE PERIOD
5 DURING THE TIME FOR WHICH SUCH PERSON IS SEEKING SUCH REIMBURSEMENT.

6 2. "PROSECUTOR" MEANS A FULL-TIME DISTRICT ATTORNEY, AS DEFINED IN
7 SUBDIVISION THIRTY-ONE OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

8 3. "INDIGENT DEFENSE ATTORNEY" MEANS AN ATTORNEY WHO IS A FULL-TIME
9 EMPLOYEE OF ANY OF THE AGENCIES DESIGNATED BY SUBDIVISIONS ONE AND TWO
10 OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY LAW, AND WHO IS
11 ENGAGED FULL-TIME IN THE PRACTICE OF CRIMINAL LAW ON BEHALF OF PERSONS
12 CHARGED WITH A CRIME WHO ARE FINANCIALLY UNABLE TO OBTAIN COUNSEL.

13 4. "CIVIL LEGAL SERVICES ATTORNEY" MEANS AN ATTORNEY WHO IS AN EMPLOY-
14 EE OF:

15 (A) THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING ALL
16 PUBLIC INSTRUMENTALITIES THEREUNDER, AND WHO IS ENGAGED IN THE FULL-TIME
17 PRACTICE OF LAW ON BEHALF OF THE STATE OR ANY POLITICAL SUBDIVISION
18 THEREOF; OR

19 (B) A NOT-FOR-PROFIT CORPORATION OF THIS STATE THAT IS (I) EXEMPT FROM
20 THE PAYMENT OF FEDERAL INCOME TAXES PURSUANT TO SECTION 501(C)(3) OF THE
21 INTERNAL REVENUE CODE, AND (II) ESTABLISHED FOR THE PURPOSE OF PROVIDING
22 LEGAL SERVICES THAT INCLUDE CIVIL LEGAL SERVICES TO PERSONS WITHIN NEW
23 YORK STATE WHOSE ANNUAL INCOME DOES NOT EXCEED ONE HUNDRED FIFTY PERCENT
24 OF THE PREVAILING POVERTY GUIDELINES ISSUED BY THE UNITED STATES DEPART-
25 MENT OF HEALTH AND HUMAN SERVICES OR ANY SUCCESSOR AGENCY; AND WHO IS
26 ENGAGED IN THE FULL-TIME PRACTICE OF LAW ON BEHALF OF SUCH PERSONS.

27 5. "ELIGIBLE PERIOD" MEANS THE SIX-YEAR PERIOD BETWEEN THE COMPLETION
28 OF THE THIRD YEAR AND BEFORE THE COMMENCEMENT OF THE TENTH YEAR OF
29 EMPLOYMENT AS A PROSECUTOR AS DEFINED IN SUBDIVISION TWO OF THIS
30 SECTION, OR INDIGENT DEFENSE ATTORNEY AS DEFINED IN SUBDIVISION THREE OF
31 THIS SECTION, OR CIVIL LEGAL SERVICES ATTORNEY AS DEFINED IN SUBDIVISION
32 FOUR OF THIS SECTION. FOR PURPOSES OF THIS ARTICLE, ALL PERIODS OF TIME
33 DURING WHICH AN ADMITTED ATTORNEY WAS EMPLOYED AS A PROSECUTOR, INDIGENT
34 DEFENSE ATTORNEY OR CIVIL LEGAL SERVICES ATTORNEY SHALL BE COMBINED.

35 6. "STUDENT LOAN EXPENSE" MEANS THE TOTAL PAYMENTS IN SATISFACTION OF
36 THE CUMULATIVE TOTAL OF THE ELIGIBLE ATTORNEY'S OUTSTANDING STUDENT LOAN
37 DEBT COVERING THE TUITION AND OTHER COSTS OF ATTENDANCE AT A LAW SCHOOL,
38 INCLUDING INTEREST, REQUIRED TO BE MADE BY THE ELIGIBLE ATTORNEY DURING
39 A STATE FISCAL YEAR. FOR PURPOSES OF THIS ARTICLE, THE AMOUNT OF THE
40 STUDENT LOAN EXPENSE SHALL BE REDUCED BY THE TOTAL OF ALL GRANTS, SCHOL-
41 ARSHIPS, REIMBURSEMENTS, LOAN FORGIVENESS OR SIMILAR REDUCTIONS TO THE
42 ATTORNEY'S INDEBTEDNESS THAT THE ATTORNEY HAS RECEIVED OR SHALL RECEIVE
43 IN OR FOR SUCH YEAR.

44 S 499-B. PROGRAM ADMINISTRATION. THE CHIEF ADMINISTRATOR OF THE COURTS
45 SHALL ADMINISTER THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE
46 PROGRAM AND SHALL PROMULGATE RULES AND REGULATIONS CONSISTENT WITH THIS
47 ARTICLE TO GOVERN THE ADMINISTRATION OF SUCH PROGRAM. THE CHIEF ADMINIS-
48 TRATOR SHALL CREATE AN APPLICATION PROCESS TO DETERMINE ELIGIBILITY FOR
49 APPLICANTS TO RECEIVE STUDENT LOAN EXPENSE GRANTS PURSUANT TO THIS ARTI-
50 CLE.

51 S 499-C. PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE. 1. (A) AN
52 ELIGIBLE ATTORNEY MAY APPLY, CONSISTENT WITH THIS ARTICLE AND THE RULES
53 AND REGULATIONS PROMULGATED BY THE CHIEF ADMINISTRATOR, FOR THE
54 REIMBURSEMENT OF STUDENT LOAN EXPENSE PAYMENTS MADE BY THE ELIGIBLE
55 ATTORNEY DURING A STATE FISCAL YEAR THAT FALLS COMPLETELY WITHIN THE

1 ELIGIBLE PERIOD FOR SUCH ATTORNEY. SUCH APPLICATION SHALL BE FILED AT
2 SUCH TIME AS THE CHIEF ADMINISTRATOR MAY REQUIRE.

3 (B) AN ELIGIBLE ATTORNEY, TO RECEIVE REIMBURSEMENT OF A STUDENT LOAN
4 EXPENSE UNDER THIS ARTICLE, MAY APPLY FOR SUCH REIMBURSEMENT UPON THE
5 COMPLETION OF THE FIRST YEAR OF HIS OR HER ELIGIBLE PERIOD, AND MAY
6 APPLY FOR SUCH REIMBURSEMENT ANNUALLY THEREAFTER UPON THE COMPLETION OF
7 THE SECOND THROUGH SIXTH YEARS OF SUCH ELIGIBLE PERIOD; PROVIDED, HOWEV-
8 ER, THAT EACH SUCH APPLICATION SHALL BE ONLY FOR HIS OR HER STUDENT LOAN
9 EXPENSE PAYMENTS DURING THE PREVIOUS STATE FISCAL YEAR.

10 2. DURING EACH STATE FISCAL YEAR COMMENCING ON OR AFTER APRIL FIRST,
11 TWO THOUSAND FOURTEEN, THE STATE SHALL APPORTION AND PAY TO EACH ELIGI-
12 BLE ATTORNEY, PURSUANT TO THIS ARTICLE AND SUBJECT TO THE AVAILABILITY
13 OF APPROPRIATIONS THEREFOR, AN AMOUNT EQUAL TO THE LESSER OF THE STUDENT
14 LOAN EXPENSE OF SUCH ELIGIBLE ATTORNEY OR SIX THOUSAND DOLLARS. THE
15 STATE ASSISTANCE APPORTIONED UNDER THIS SECTION SHALL BE DETERMINED BY
16 THE CHIEF ADMINISTRATOR AND PAID OUT OF THE PUBLIC INTEREST LEGAL
17 SERVICES LOAN ASSISTANCE FUND. IN THE EVENT THAT THE MONIES APPROPRIATED
18 FROM SUCH FUND DURING A STATE FISCAL YEAR FOR PURPOSES OF MAKING ASSIST-
19 ANCE PAYMENTS ARE NOT SUFFICIENT TO PAY FULLY THE AMOUNTS APPORTIONED
20 DURING SUCH FISCAL YEAR TO ALL ELIGIBLE ATTORNEYS ENTITLED THERETO, EACH
21 ELIGIBLE ATTORNEY SHALL BE ENTITLED TO RECEIVE ONLY AN AMOUNT REPRESENT-
22 ING THE SAME PROPORTION TO THE TOTAL MONIES APPROPRIATED, LESS NECESSARY
23 ADMINISTRATIVE COSTS, AS THE AMOUNT APPORTIONED TO HIM OR HER BEARS TO
24 THE TOTAL AMOUNT APPORTIONED TO ALL ELIGIBLE ATTORNEYS FOR SUCH FISCAL
25 YEAR.

26 S 6. Subdivision 1 of section 212 of the judiciary law is amended by
27 adding a new paragraph (w) to read as follows:

28 (W) ADMINISTER THE PUBLIC INTEREST LEGAL SERVICES LOAN ASSISTANCE
29 PROGRAM PURSUANT TO ARTICLE FIFTEEN-A OF THIS CHAPTER.

30 S 7. This act shall take effect September 1, 2015; provided, however,
31 that the chief administrator of the courts is immediately authorized to
32 promulgate any rules and regulations necessary to implement the
33 provisions of this act.