SPONSOR: Rep. Griffith & Sen. Paradee & Sen. Brown & Sen. Gay
Reps. Bush, Dorsey Walker, Gray, Lambert, Smyk; Sens. Hansen, Lopez, Pinkney, Townsend

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 380
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE PUBLIC ATTORNEY STUDENT LOAN REPAYMENT PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 51, Title 29 of the Delaware Code by placing all of the existing provisions of that chapter into a new "Subchapter I" and adding a new "Subchapter II" as shown by underline as follows:

Subchapter II. Public Attorney Student Loan Repayment Program

§ 5151. Establishment; statement of purpose.

(a) There is established a Public Attorney Student Loan Repayment Program for attorneys employed by the State of Delaware or one of Delaware's civil legal aid organizations for the purpose of practicing law. The program allows qualified applicants to apply for a payment from the State to the applicant's lending agency to pay a portion of the applicant's qualified educational loan. The Council shall administer the program.

(b) The purpose of the program is to improve the recruitment and retention of attorneys employed by the state of Delaware or one of Delaware's civil legal aid organizations to ensure high quality legal services.

(c) The application prescribed, and policies adopted pursuant to this subchapter shall be available on the Council's website.

§ 5152. Definitions.

As used in this subchapter:

(1) "Award" means the Council's decision to make a loan payment on an applicant's behalf.

(2) "Civil legal aid organization" means Community Legal Aid Society, Delaware Volunteer Legal Services, or Legal Services Corporation of Delaware.

(3) "Council" means the Delaware Criminal Justice Council.

(4) "Lending agency" means an entity that provides a qualified education loan.

(5) "Loan payment" means a payment by the Council to a successful applicant's lending agency of a portion of the applicant's qualified educational loan.

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(6) "Loan award committee" means a committee composed of the following members:

a. Executive Director of the Council.

b. The Chief Defender, or the Chief Defender's designee.

c. The Attorney General, or the Attorney General's designee.

d. The Chief Justice, or the Chief Justice's designee.

e. A member of the Delaware bar appointed by the Governor.

(7) "Program" means the Public Attorney Student Loan Repayment Program established in this subchapter.

(8) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to an applicant's undergraduate or law degree program.

§ 5153. Funding.

(a) Appropriations for the program will be made to the Council through the Budget Appropriations Bill in a separate line item appropriation. The Council is authorized to accept private donations and federal funding to support the program.

(b) The Council may use up to 5% of the amount appropriated for the program to cover costs of administering the program.

§ 5154. Eligibility for the program.

To qualify to participate in the program, all of the following must apply:

(1) The applicant has secured a qualified educational loan prior to submitting an application.

(2) The applicant is an active member in good standing of the Bar of the Supreme Court of the State of Delaware or is practicing law under Rule 55.

(3) The applicant has been an employee of the State of Delaware or one of Delaware's civil legal aid organizations for at least a year, and the applicant's primary job function is the practice of law.

§ 5155. Application.

(a) The application to participate in the program shall require the applicant to certify that they meet the eligibility requirements of § 5154 of this subchapter. The application shall otherwise be in the form prescribed by the Council.

(b) The applicant must submit a new, completed application each year, along with any additional information the Council may request in accordance with program regulations.

§ 5156. Decision and disbursement.

(a) The ability to make awards each year is contingent upon the availability of funds.

(b) Funds are to be distributed evenly amongst the qualified applicants per year, with the loan award committee meeting annually to oversee the allocation of funds.

(c) Notwithstanding subsection (b) of this section, if there there are insufficient funds to make an award to every applicant who satisfies the requirements of this subchapter, the loan award committee shall give priority to applicants having the greatest financial need.

(d) The applicants having the greatest financial need is determined in the sole discretion of the loan award committee. The Council shall request all of the following information, but the weight to be given to the information shall be determined in the sole discretion of the loan award committee:

(1) The applicant's income.

(2) The applicant's spousal income.

(3) The number of the applicant's dependents.

(4) The total amount of the applicant's qualified educational loans.

(5) The applicant's monthly loan payment amount.

(e) The Council shall make payment directly to the applicant's lending agency on behalf of the applicant.

(f) An applicant may receive only 1 award per year and may receive no more than 10 awards in the applicant's lifetime. An award may be made as a single annual payment or disbursed over periodic intervals, at the Council's discretion.

(g) Applicants who make over $110,000 a year are ineligible for an award under this subchapter.

§ 5157. Amount of award.

An award shall be a minimum of $2,500 and shall not exceed $5,000.

§ 5158. Rules and regulations.

The Council may adopt implementing rules and regulations. Rules and regulations shall be adopted in consultation with the loan award committee.

§ 5159. Penalties.

If an applicant knowingly submits false information or commits fraud in connection with the application process, the Council may reevaluate the applicant's eligibility for an award and may withdraw an award. Any award made as the result of deliberate fraud may be recovered by the State through an action at law.

§ 5160. Annual reporting.

Each fiscal year, the Council shall report to the General Assembly, the Attorney General, Chief Defender, and the Chief Justice the following summary data, which shall be de-identified to the greatest extent possible:

(1) The aggregate number of attorneys who applied for an award.

(2) The aggregate number of attorneys who received an award.

(3) The race, ethnicity, age, and gender represented by attorneys who applied for an award.

(4) The race, ethnicity, age, and gender represented by attorneys who received an award.

(5) The employer of attorneys who applied for an award.

(6) The employer of attorneys who received an award.

(7) The legal practice areas of attorneys who applied for an award.

(8) The legal practice areas of attorneys who received an award.

(9) The average amount of an award to an attorney under to the program.

(10) Other summary data identified by the loan award committee.

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, unenforceable or unconstitutional, the remainder of such provisions, and the application of such provisions to any person or circumstance other than those as to which it is held invalid, shall not be affected.