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Calendar No. 113

110TH CONGRESS
1ST SESSION

S. 442

[Report No. 110–51]

To provide for loan repayment for prosecutors and public defenders.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2007

Mr. DURBIN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. SMITH, Mr. KERRY, Ms. COLLINS, Ms. LANDRIEU, Ms. SNOWE, Mr. BIDEN, Mr. COCHRAN, Mr. KENNEDY, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. WHITEHOUSE, Mr. COLEMAN, Mr. KOHL, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 10, 2007

Reported by Mr. LEAHY, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for loan repayment for prosecutors and public defenders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''John R. Justice Prosecutors and Defenders Incentive Act of 2007''.

SEC. 2. LOAN REPAYMENT FOR PROSECUTORS AND DEFENDERS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART JJ—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS

''SEC. 3111. GRANT AUTHORIZATION.

''(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders.

''(b) DEFINITIONS.—In this section:

''(1) PROSECUTOR.—The term 'prosecutor' means a full-time employee of a State or local agency who—

''(A) is continually licensed to practice law; and

''(B) prosecutes criminal *or juvenile delinquency* cases at the State or local ~~level~~ *level (including supervision, education, or training of other persons prosecuting such cases).*

''(2) PUBLIC DEFENDER.—The term 'public defender' means an attorney who—

"(A) is continually licensed to practice law; and

"(B) is—

~~"(i) a full-time employee of a State or local agency or a nonprofit organization operating under a contract with a State or unit of local government, that provides legal representation to indigent persons in criminal cases; or~~

"(i) a full-time employee of a State or local agency who provides legal representation to indigent persons in criminal or juvenile delinquency cases (including supervision, education, or training of other persons providing such representation);

"(ii) a full-time employee of a nonprofit organization operating under a contract with a State or unit of local government, who devotes substantially all of his or her full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases, (including supervision, education, or training of other persons providing such representation); or

"~~(ii)~~ *(iii)* employed as a full-time Federal defender attorney in a defender organization established pursuant to subsection (g) of section 3006A of title 18, United States Code, that provides legal representation to indigent persons in criminal *or juvenile delinquency* cases.

"(3) STUDENT LOAN.—The term 'student loan' means—

"(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

"(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq. and 1087aa et seq.); and

"(C) a loan made under section 428C or 455(g) of the Higher Education Act of 1965 (20 U.S.C. 1078–3 and 1087e(g)) to the extent that such loan was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H of such Act.

"(c) PROGRAM AUTHORIZED.—The Attorney General shall establish a program by which the Department of Jus-

tice shall assume the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

"(1) is employed as a prosecutor or public defender; and

"(2) is not in default on a loan for which the borrower seeks forgiveness.

"(d) TERMS OF AGREEMENT.—

"(1) IN GENERAL.—To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement that specifies that—

"(A) the borrower will remain employed as a prosecutor or public defender for a required period of service of not less than 3 years, unless involuntarily separated from that employment;

"(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Attorney General the amount of any benefits received by such employee under this section;

"(C) if the borrower is required to repay an amount to the Attorney General under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee (or such employee's estate, if applicable) by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

"(D) the Attorney General may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest; and

"(E) the Attorney General shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

"(2) REPAYMENTS.—

"(A) IN GENERAL.—Any amount repaid by, or recovered from, an individual or the estate of an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

"(B) MERGER.—Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

"(3) LIMITATIONS.—

"(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan repayments made by the Attorney General under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Attorney General in an agreement under paragraph (1), except that the amount paid by the Attorney General under this section shall not exceed—

"(i) $10,000 for any borrower in any calendar year; or

"(ii) an aggregate total of $60,000 in the case of any borrower.

"(B) BEGINNING OF PAYMENTS.—Nothing in this section shall authorize the Attorney General to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Attorney General

entered into an agreement with the borrower under this subsection.

"(e) ADDITIONAL AGREEMENTS.—

"(1) IN GENERAL.—On completion of the required period of service under an agreement under subsection (d), the borrower and the Attorney General may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

"(2) TERM.—An agreement entered into under paragraph (1) may require the borrower to remain employed as a prosecutor or public defender for less than 3 years.

~~"(f) AWARD BASIS; PRIORITY.—~~

~~"(1) AWARD BASIS.—Subject to paragraph (2), the Attorney General shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.~~

~~"(2) PRIORITY.—The Attorney General shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—~~

"(f) AWARD BASIS; PRIORITY.—

"(1) AWARD BASIS.—Subject to paragraph (2), the Attorney General shall provide repayment benefits under this section—

"(A) giving priority to borrowers who have the least ability to repay their loans, except that the Attorney General shall determine a fair allocation of repayment benefits among prosecutors and public defenders, and among employing entities nationwide; and

"(B) subject to the availability of appropriations.

"(2) PRIORITY.—The Attorney General shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

"(A) received repayment benefits under this section during the preceding fiscal year; and

"(B) has completed less than 3 years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

"(g) REGULATIONS.—The Attorney General is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(h) STUDY.—Not later than 1 year after the date of enactment of this section, the Government Accountability Office shall study and report to Congress on the impact of law school accreditation requirements and other factors on law school costs and access, including the impact of such requirements on racial and ethnic minorities.

"~~(h)~~*(i)* AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2008 and such sums as may be necessary for each succeeding fiscal year.".

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