

## Dr. Ethics

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else of similar experience would take the case, I think there could be reasons for the committee to consider reducing the fee. One reason might be that there are other attorneys who already have liens on any recovery." Al says you could consider making this a "very rare" exception. But only where there is a real and bona fide reason.

Dr. Ethics

### Legal Aid

By the way, while we're talking fees, what are LRIS programs doing about hybrid fees? They are becoming more and more common in California. Let's say, for instance, that I agree to charge a client half my hourly rate plus half my contingency. No problem in those jurisdictions that collect the same percentage for both kinds of fees, but it could be a big difference in places like my town of San Francisco, where the fee structures are different (and higher) on contingencies. Those

with these kinds of fee structures should pay attention to these increasingly common fees.

**Dr. Ethics** is otherwise known as Richard Zitrin, director of the Center for Applied Legal Ethics at the University of San Francisco.

*The analysis and opinions in this article are those of the author, and do not necessarily represent the views, policy or opinions of the American Bar Association or the ABA Standing Committee on Lawyer Referral and Information Service.*

# Paving the Way to Public Service: The ABA Commission on Loan Repayment and Forgiveness

by Curtis M. Caton and Judge Frank M. Coffin

Many of today's law graduates are faced with law school debt of \$80,000 or more upon graduation. For graduates following the standard 10-year repayment schedule, this results in monthly payments of more than \$900 for 10 years following graduation. With the average starting public interest salary at \$34,000, these mortgage-size debts bar most graduates from pursuing public interest legal jobs. Among those graduates who do take such positions, many—when faced with major life decisions such as starting a family—are forced to leave after two to three years of employment.

In response to this problem, ABA President Robert E. Hirshon created the Commission on Loan Repayment and Forgiveness in August 2001. The commission's job is to examine and report on the effect upon the legal profession of the increasing educational

debt burdening law school graduates. In creating the commission, Hirshon noted that many observers believe that fewer lawyers are drawn to pursue public interest law positions such as in civil legal services or indigent defense immediately following graduation, and that those who do take these jobs cannot afford to remain in them very long. He believes this phenomenon has immediate and long-term consequences that will harm the profession and the public it serves.

Loan repayment assistance programs ("LRAPs") have emerged as a solution for relieving the debt burden of some law graduates. LRAPs provide loan forgiveness, lower interest rates on loans, or postponed payment of law school loans to graduates entering specific types of employment, usually law-related public interest jobs. Most LRAPs contain

limits on the amount of income a recipient can earn while participating in such a program. There are various types of LRAPs, administered by law schools, state bar foundations and federal and state governments, providing debt relief to some law graduates. However, the number of these programs has not increased appreciably during the past five years, while the average debt burden on law graduates has more than doubled during the same period of time.

The commission will study the impact of the debt burden problem on the ability of law graduates to pursue and remain in public interest law jobs, and recommend solutions to the ABA and the profession. During the current bar year (ending in August 2002), the commission will focus on promoting LRAPs and guiding ABA efforts to

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## From the Chair...

Looking for the latest commentary on legal aid and indigent defense issues from SCLAID Chair L. Jonathan Ross? You will find it on **page 9** of this issue, where Ross has joined with Robert N. Weiner, chair of the ABA Standing Committee on Pro Bono and Public Service, for a column addressing the interaction between legal services programs and pro bono programs.

## Loan Repayment

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stimulate more LRAPS and scholarships/fellowships provided by law schools, the federal government, state governments, and other private sources.

The commission is chaired by Curtis M. Caton, a member of the firm of Heller Erhman White & McAuliffe LLP in San Francisco, and Judge Frank M. Coffin of Portland, Maine, a senior judge on the U.S. Court of Appeals for the First Circuit. The ten commission members include leaders in the profession, drawn from the ranks of law school deans and faculty, law students, experienced public service lawyers, legislative experts and others. The liaisons include representatives from many ABA entities as well as external organizations representing various constituencies, including law schools, labor, public interest attorneys, and corporate counsel.

The commission held its first meeting on October 22-23, 2001 in Washington, DC. The meeting

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## SPAN Reports on Status of State Access to Justice Partnerships

by Robert Echols

**D**uring the past five years, "access to justice" partnerships involving the bar, the courts and legal aid providers have had a profound impact on the civil legal assistance delivery system in the United States. In many states, these efforts have played a major role in securing or increasing state funding for legal assistance, either through direct appropriations or through court fee surcharges or fines. They have promoted the creation of new providers to ensure that the range of civil legal needs in the state is addressed. They have launched major improvements to state court systems, rendering them more "user-friendly" and receptive to self-represented litigants. They have worked toward expanding the level and scope of involvement of private attorneys in providing pro bono services to low-income people.

SPAN, a joint project of the ABA's Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and the National Legal Aid and Defender Association (NLADA), has been providing support for state-level access to justice initiatives since 1996. SPAN serves as an information clearinghouse and works with state leaders to promote the development of new partnerships to expand access to justice.

According to SPAN's most recent report on the status of access to justice structures and initiatives in the 50 states and the District of Columbia, the number of states with formal, institutionalized partnerships is continuing to grow, while virtually every state has some kind of active joint initiative to expand access to justice under way. Key findings of the survey include the following:

- Fourteen states have an access to justice commission or a similar entity—a formal body composed of appointed representatives of the bar, the judiciary, and providers. Some include other stakeholders as well, such as clients, business and labor leaders, and representatives of community agencies and churches. This group includes well-established entities in California, Louisiana, Maine, Maryland, Washington and West Virginia, more recent ones in Arizona, Illinois and Pennsylvania, and brand new ones in Idaho, Missouri, Montana, Texas and Vermont.
- At least four other states have begun to plan for or consider the creation of an access to justice commission—Arkansas, Colorado, Mississippi and Nebraska.
- Seven states have a committee of a state bar or bar association that is charged with a broad access to justice function and that includes representatives of the judiciary, providers and other stakeholders, in addition to bar leaders. This group—Delaware, Georgia, Michigan, Minnesota, Nevada, New Mexico and Oregon—includes some of the most effectively institutionalized access to justice structures in the country.
- Four states—Alaska, Florida, Massachusetts and Utah—have a structure of active committees or other entities dedicated to imple-

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## Loan Repayment

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featured a day-long educational forum during which commission members, liaisons and invited guests heard presentations from many experts about the substantive areas impacting the commission's work, such as the Higher Education Act. ABA President Hirshon began the forum by welcoming the attendees with his opening remarks. During the presentations that followed, recent law graduates testified about the difficulty of pursuing and remaining in a public interest law job without the benefit of LRAP assistance. Then academics, policy makers, law school faculty, recent law graduates and LRAP administrators provided information about existing programs, policies and laws and suggested possible projects for the commission to consider.

Building on the information and insights received during the first meeting, the commission established its objectives for the year. Recognizing the need to involve the private and public sectors, the commission will pursue a multifaceted approach to the problem. Proposed projects include developing model LRAPs for law schools, drafting a model state LRAP act, and undertaking a cohesive legislative and administrative advocacy plan on the federal level. To structure its work, the commission formed three working groups that will meet on a regular basis.

The commission faces a challenging and exciting year. It will work together with the leaders within the ABA and many other national organizations involved in

## Recent LRAP Developments

### Texas

Texas Governor Rick Perry signed two bills establishing state-administered LRAPs for attorneys employed by the Texas Attorney General's Office (HB 2766) and legal aid attorneys and prosecutors working in rural areas of Texas (HB 2323). Under the first LRAP bill, one percent of law school tuition revenues (from resident student tuition only) will be diverted into a trust account for the loan repayment program for lawyers employed by the Texas Attorney General's Office. Implementation of HB 2766 will require a period of time for set-aside funds to accumulate.

The Texas legislature did not appropriate any funding for the program benefiting legal aid attorneys and rural prosecutors. The Texas State Bar has formed a committee to work on the funding issue. To access copies of both bills, visit <http://www.capitol.state.tx.us/> (search for HB 2323 and HB 2766).

### California

California Governor Gray Davis recently signed AB 935, a bill creating a loan repayment program for legal aid attorneys, prosecutors, public defenders and county attorneys who handle child support cases. There is no funding for this bill. If and when the program is funded, it will be administered by a state agency.

To access a copy of the bill, visit <http://www.assembly.ca.gov/acs/defaulttext.asp> (search for AB 935).

### University of Virginia School of Law

John C. Jeffries, Jr., dean of the University of Virginia School of Law, recently approved an expanded LRAP that will go into effect with the class of 2002. Highlights of the program include an increased participant salary cap of \$60,000 and expanded coverage to include all public service positions, as well as all legal jobs in the Commonwealth of Virginia that pay under \$60,000. UVA School of Law also just launched the Powell Fellowship to honor the commitment of the late Justice Lewis F. Powell, Jr. to providing legal services for the poor. The first recipient will be selected in the spring of 2002. The fellowship pays \$35,000 plus benefits for two years.

For more information about these or other LRAP developments, contact Dina Merrell at 312-988-5773 or [merrelld@staff.abanet.org](mailto:merrelld@staff.abanet.org)

this issue, including the National Legal Aid and Defender Association, National Association for Public Interest Law and National Association of Law Placement, with the hope of facilitating the cultivation of a new generation of public interest attorneys.

**Curtis M. Caton and Judge Frank M. Coffin** serve as the co-chairs of the ABA Commission on Loan Repayment and Forgiveness.

*For more information about the ABA Commission on Loan Repayment and Forgiveness, please contact Dina Merrell, staff counsel, at 312-988-5773 or [merrelld@staff.abanet.org](mailto:merrelld@staff.abanet.org)*