

Income-Contingent Repayment Option

William D. Ford Federal Direct Lending Program

The American Bar Association supports student loan forgiveness and repayment assistance for lawyers who enter public service careers. The high cost of higher education often leaves law school graduates with significant education debt loads, preventing them from taking and remaining in public interest jobs, despite increased need for such services.

The American Bar Association spent two years studying this issue and in 2003 released a report with recommendations on alleviating the problem. One such proposal is to amend the Income Contingent Repayment Option (ICR Option) of the William D. Ford Direct Lending Program. Currently, the ICR Option allows students to repay their loans as an affordable percentage of their income for up to 25 years, and any balance remaining on those qualifying loans is forgiven. Despite this, only a fraction of student borrowers use this program, citing the lengthy repayment as an obstacle. The ABA proposes to amend the ICR Option to shorten the period at which forgiveness occurs from 25 to at most 15 years for those who make a long-term commitment to public service work. The length of the commitment is left to Congress.

The ABA also supports removing the built-in “marriage penalty” under the ICR Option by changing the formula for consideration of joint income homes. We propose to attribute one-half of the combined income to each spouse.

The ABA urges Congress to amend the ICR Option of the Direct Lending Program because:

- **Today, despite the combined efforts of government, private lawyers and the organized bar, up to 80 percent of the basic civil legal needs of the poor are not being met.** Recruitment and retention of lawyers in public service is an excellent way to address this imbalance. Yet legal aid offices, as well as prosecutor and public defender offices, are concerned over their difficulty to remain appropriately staffed and the effect short staffing has on the justice system itself. According to a study, 66% of responding students cited high education debt and low pay in public service as the reason they did not pursue such public interest careers.
- **Congress should remove or mitigate obstacles for those who pursue laudable public interest careers.** For the Class of 2004, the median total debt for law graduates was \$97,763 for private school, \$66,810 for public. The media starting salary for lawyers in non-profit organizations was \$36,000, i.e., under traditional repayment terms, a student with \$100,000 in debt and gross income of \$36,000 would have just over \$1,100 a month for all living expenses. The proposed amendments to the ICR Option will allow students to pursue these laudable public service careers. The fair administration of justice depends on having a sufficient number of lawyers committed to long-term public service.
- **Existing loan forgiveness and repayment assistance programs are limited in scope and impact.** Most federal programs are not available to lawyers. About one-third of schools and some state governments have developed repayment assistance programs for graduates in public service, but their funding only reaches a very limited number of people. Most schools are willing to explore options, but are unable to afford such programs.
- **The ICR Option amendments will allow Congress to recognize all who pursue public interest with modest forms of relief for those who are truly committed.** In a time of very tight budget constraints, our proposal is a cost-effective way for Congress to recognize the broad spectrum of public service workers. It allows people to remain in the public service careers, provides them a form of relief in appreciation for the service they render to our communities, and encourages repayment of the original debt.
- **The marriage penalty is an undesirable deterrent to more people choosing the ICR Option.** Regulations now impute the total income of both spouses to each spouse to determine the ICR repayment obligation. It is unlikely that Congress desired to create this disincentive to marry. The law should assume that only half of the total income of a married couple is available to each spouse.