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## MEMORANDUM OF SUPPORT A7841 (Bronson)

June 5, 2015

**The Chief Defenders Association of New York (CDANY) strongly supports A7841 (Bronson), which would end the New York State's District Attorney and Indigent Legal Services Attorney Loan Forgiveness (DALF) Program's penalty for military service, having or adopting children, or getting sick or injured.** The Chief Defenders Association of New York (CDANY) is a membership organization of the leadership of fifty-nine (59) Indigent Defense Programs across New York State. Collectively, indigent defense offices represented close to 400,000 individuals in the criminal, family, and appellate courts of New York in 2014. Our membership includes County Public Defenders, Assigned Counsel program chiefs and non-profit organizations from Chautauqua County in the Southern Tier to Franklin County near the Canadian Border to New York City.

The need for this legislation is clear. According to the U.S. Bureau of Justice Assistance, "Student loan debt is consistently cited as the overwhelming reason why many attorneys decline or leave positions as prosecutors and public defenders." The New York State District Attorney and Indigent Legal Services Attorney Loan Forgiveness (DALF) Program, administered by the Higher Education Services Corporation of the New York State Education Department, is therefore a critical component of our justice system. Without this support, young attorneys who are dedicated to being prosecutors, public defenders, or other indigent legal service attorneys may not be able to stay in the field and add their experience and dedication to the cause of justice in our system. The existence of this law helps keep the best and brightest attorneys in the front lines of our criminal courts on a daily basis. It is only through an oversight that the specific issue in this bill has caused attorneys to be denied their student loan assistance payments in the very year they may need them most. Indeed, this legislation would bring state law into parity with the federal John R. Justice Loan Forgiveness Program, which allows recipients to receive credited time when on leave for military service, authorized maternity/paternity leave, family and medical leave, or compensable injury.

### EXISTING LAW

Pursuant to Education Law § 679-e, New York State District Attorneys and indigent legal service attorneys are eligible for up to \$3,400 annually in student loan forgiveness awards for a maximum of six years of qualified service. The eligibility period is the six years after completion of the third year of qualified service, and before the tenth year. Any interruptions in employment, including temporary leave, do not count toward the period of qualified service.

## **PROPOSED AMENDMENT**

The legislation in question would count leave -- for uniformed service in the U.S. military, authorized maternity or paternity leave, leave entitled under the Family and Medical Leave Act, and leave due to compensable injury -- toward the required service period if the employee returns to the qualified agency. The failure to include these periods was a critical oversight of the original drafters at the time DALF was passed.

## **JUSTIFICATION**

District Attorneys and public defense attorneys do critical work that is essential to the functioning and integrity of the criminal courts and criminal justice system-at-large, yet attorneys in this field earn far less than their counterparts in for-profit law. Many law graduates leave non-profit or government employment at the point they get married, have children or incur other obligations that often begin a few years after graduating law school. The crushing student loan debt of these law graduates adds an enormous burden on them and makes it even harder to stay in relatively low-paying jobs. Many attorneys have second jobs on the weekends, some even working as waiters or bartenders to make ends meet. Our loan repayment program assists offices on both sides of the criminal justice system in keeping qualified and experienced attorneys and helps the courts run efficiently and properly.

CDANY's members hire law graduates from the best schools in the country and have been highly successful in attracting a highly-talented and diverse team of attorneys to provide a wide range of legal services for poor people. DALF is a critical measure to help law school graduates, particularly those who come from the types of neighborhoods affected by the criminal justice system and should be working as prosecutors and defenders, pay back their student loans while accepting the mission of public service. However, the current eligibility criteria unduly penalize military service, families, and people who get sick or injured by extending the required service period. In the interest of fairness, we must end the harsh and discriminatory penalty in its eligibility criteria. This amendment would significantly improve the state's overall support for access to justice and the integrity of the system as a whole.

Thank you for your consideration of our comments. If you have any questions about indigent legal service attorneys' experience with DALF, or any other issue that might affect our clients, please do not hesitate to contact us.