

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

March 30, 2020

# The Coronavirus Aid, Relief, and Economic Security (CARES) Act

## Ten Highlights for ABA Members

On March 27, Congress overwhelmingly passed its third major bipartisan bill designed to provide relief to Americans in the wake of the COVID-19 pandemic called the Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748). The President immediately signed the bill into law that same day as Public Law No. 116-136.

The CARES Act includes, among other things, extensive monetary relief to support small business operations, including eligible small and solo law firms, and direct payments to eligible Americans and workers to help them through this national emergency. It also includes items relevant to ABA advocacy efforts on behalf of our members and the legal profession. Ten of the Act's most significant provisions are highlighted below:

1. Immediate tax rebates to individuals, including \$1,200 for each adult and \$500 for each child under 17, beginning to phase out at an annual income of \$75,000 for an individual and \$150,000 for a household, with a complete phase out for individuals earning \$99,000 or more and households earning \$198,000 or more.
2. More than \$375 billion in small business relief, including \$349 billion for forgivable loans to most organizations with less than 500 employees to help them pay their employees and keep them on the payroll. Every dollar from the eight-week period after the origination of the loan that is spent on payroll, utilities, rent, or interest on mortgage debt will be forgiven.
3. \$260 billion in dramatically expanded unemployment benefits, including an additional \$600 per week for the next four months, providing an additional 13 weeks of federally funded benefits, and expanding eligibility to include self-employed workers.
4. Emergency funding of \$50 million for the Legal Services Corporation to help address the increasing legal needs of low-income Americans caused or made worse by the coronavirus.
5. Suspension of federal student loan repayment obligations for borrowers until September 30, 2020, during which time interest does not accrue and borrowers get credit as if they had made the payments -- including for the purposes of the PSLF program. The law also gives an income exclusion to employers who make payments during the rest of

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

this year of employee student loan obligations to a lender or directly to an employee to cover qualifying loans.

6. Over \$7.5 million to support mission critical activities of the federal courts and their staffs, plus another \$1 million for Defender Services so they can continue representing clients without disruption.
7. More than \$7 billion for affordable housing and homelessness assistance programs to help low-income and working Americans avoid evictions and foreclosures, and minimize impacts caused by loss of employment, childcare, or other unforeseen circumstances related to COVID-19.
8. Election assistance funding of \$400 million to help states to prepare for and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.
9. Bureau of Prisons funding of \$100 million for urgent needs like access to personal protective equipment, COVID-19 testing materials, home detention, electronic monitoring, and other alternatives to incarceration to improve prison conditions, plus \$850 million in expedited Byrne-JAG grant funding to state and local police departments and jails for local health protection needs.
10. \$100 million for grants to increase broadband access in rural communities where at least 90% of households do not have adequate broadband, plus \$25 million to expand broadband for distance learning and telemedicine to increase access to telecommunications, audio, and video information for households in rural communities' and for professionals providing services to these communities, including mental health services to isolated veterans.

Follow us [@ABAGrassroots](https://twitter.com/ABAGrassroots) to see other legislative developments of interest to the ABA.

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

March 30, 2020

# Support LSC Funding – During Emergencies and Always

## Ensure Greater Access to Justice Across the Country

The Legal Services Corporation (LSC) was created to promote equal access to justice by providing funding assistance to civil legal aid programs that exist in every congressional district. Without access to the legal services funded by LSC, low-income Americans could not afford to get help resolving serious legal problems that affect their lives and economic stability. Most cases involve family issues (e.g. domestic violence, custody, guardianship, addiction), housing and foreclosure, consumer and employment disputes, and legal problems arising from natural disasters and they need immediate attention.

The COVID-19 pandemic spreading across the country is the latest example of how important adequate LSC funding is. Nearly one million low-income Americans who seek help for civil legal problems are turned away each year for lack of adequate resources. That number grows during emergencies like natural disasters and COVID- 19. The pandemic has already caused a significant increase in the need for legal help with evictions and unemployment, lack of access to health care, scams aimed at the elderly, and temporary restraining orders needed to protect survivors of domestic violence and people need help with these challenges.

The ABA has fiercely advocated for LSC funding for decades and we must do so again this year. On March 19, we sent a [letter](#) supporting LSC’s supplemental emergency funding request to help address the increasing legal needs caused or made worse by the coronavirus (COVID-19) pandemic. On March 27, Congress once again showed its substantial bipartisan support for LSC funding by passing the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which includes \$50 million for LSC. This is great news, but substantially more funding is needed.

### ***How YOU Can Help This Year!***

On April 22<sup>nd</sup> and 23<sup>rd</sup>, from 11am to 12:30 pm, we urge you to join the ABA and Governmental Affairs Office for [#ABADay Digital](#). We were, unfortunately, forced to cancel the in-person portion of ABA Day, but the ABA will instead host #ABADay Digital 2020 as our first ever fully-online annual advocacy event.

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

Thousands of bar leaders, attorneys, law students and other legal professionals can add their voices to enhance our collective efforts by quickly sending preformatted emails or social media messages directly to their Members of Congress on each of our advocacy issues, including funding for LSC. Each of these messages can be edited and personalized for more impact.

Just log on to the #ABADay Digital [website](#) and see links to **take action** quickly to support LSC funding for FY 2021 and have an immediate impact on policymakers making important decisions on Capitol Hill.

### ***More opportunities to engage***

In addition to sending messages to Congress, ABA Day participants with more time are encouraged to join live panels, TEDtalk-like presentations, Twitter takeovers, Tweetstorms, and more, punctuated with specific advocacy actions throughout the day.

As one of the ABA's highest advocacy priorities, we will host several events focusing on LSC funding during the April 22<sup>nd</sup> LSC segment. First, we will have a live panel discussion on "Legal Aid During a Pandemic." We will then walk you through different ways to **take action** to influence policymakers in Congress, whether from your desk, regardless of where that is these days, or during in-district meetings. The LSC segment will close with a live Q&A session over Twitter, called a Twitterchat.

For more details on LSC funding events and other #ABADay Digital activities, click [here](#).

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

March 30, 2020

# Preserve PSLF

## Having Professional Services Present, Where and When Communities Need Them

Nearly 80% of all students take out student loans. The average law school debt ranges from \$90,000 to \$130,000, while the average public interest law salaries start at \$50,000. How can law students or new lawyers who want to work in public sector professional jobs afford to accept them when they have more than \$100,000 in student loans to repay? The answer in part is to accept public service jobs where some of their loan balances might be forgiven.

Congress enacted the Public Service Loan Forgiveness (PSLF) program in 2007 in response to a growing crisis in communities across the country that were unable to attract prosecutors, public defenders, legal aid lawyers, doctors, nurses, teachers, and other professionals to provide critical services to their residents. The program helps communities fill key positions with talented professionals by lowering the primary barrier keeping new graduates from pursuing public service careers – student loan debt.

PSLF makes it financially feasible for law school graduates and other professionals to pursue modest paying public service careers by offering partial student loan forgiveness in exchange for a service commitment of at least ten year in public service jobs. Participating individuals must also make their monthly minimum payments throughout those ten years on eligible loans. Coupled with income-driven repayment options that tie monthly repayment amounts to actual income, PSLF has become a direct recruitment incentive, especially for those seeking public service jobs on tribal lands or in rural communities.

### ***In the Time of the Coronavirus:***

The spread of the coronavirus has highlighted the critical importance of having professionals available in communities across the country where and when they are needed most. Nurses, teachers, lawyers and others are all helping communities affected by the current COVID-19 health crisis, many of them serving in public service positions because of the PSLF program.

### ***How YOU Can Help This Year!***

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

The PSLF program has been under threat of elimination for years. The ABA is continuing its fight to preserve this important program for legal and other professionals, and we need **YOUR** help.

*Advocacy During ABA Day Digital*  
Wednesday, April 22<sup>nd</sup> | 2:00 pm-3:30 pm EST

On April 22<sup>nd</sup> from 2:00 pm to 3:30 pm EST, we urge you to join the ABA and Governmental Affairs Office for [#ABADay Digital](#). We were, unfortunately, forced to cancel the in-person portion of ABA Day, but the ABA will instead host #ABADay Digital 2020 as our first ever fully online annual advocacy event.

Thousands of bar leaders, attorneys, law students and other legal professionals can add their voices to enhance our collective efforts by quickly sending preformatted emails or social media messages directly to their Members of Congress on each of our advocacy issues, including preserving PSLF. Each of these messages can be edited and personalized for more impact.

Just log on to the #ABADay Digital [website](#) and see links to **take action** quickly to preserve PSLF and have an immediate impact on policymakers making important decisions on Capitol Hill.

### ***More opportunities to engage!***

In addition to sending messages to Congress, ABA Day participants with more time are encouraged to join live panels, TEDtalk-like presentations, Twitter takeovers, Tweetstorms, and more, punctuated with specific advocacy actions throughout the day.

As one of our primary issues during #ABADay Digital, we look forward to focusing our efforts to preserve PSLF on Wednesday, April 22<sup>nd</sup>, from 2:00 pm-3:30 pm EST. During this timeframe, you can hear ABA members speaking about their experiences with PSLF, participate in a Twitterchat with the Young Lawyers and the Law Student Divisions under the hashtag #PublicWageGap, and join a Q&A session with a PSLF policy expert. Our call to action is scheduled for 2:30 pm EST when we hope to flood the social media accounts and mailboxes of our elected officials.

For more details on preserving PSLF events and other #ABADay Digital activities, click [here](#).

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

March 31, 2020

# Allow the VA to Provide Legal Aid for Homeless Vets

## Ensure Homeless Veterans Have More Access to their Benefits

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There are many reasons that a veteran may become homeless, and it takes a range of people and services to help get those men and women back on their feet, but as we wrote in [June](#), the Department of Veterans Affairs (VA) lacks the ability to fund legal aid in any way. The ABA is fighting to help change that and we need **YOU** to join us.

The VA has documented that common legal problems facing homeless veterans often make them ineligible for housing or other programs and services they need, but the VA lacks the statutory authority to fund legal assistance that might help. And that's important, because while the number of homeless veterans continues to go down slightly, the number of those living without shelter is slightly higher now than it was in 2016. We should do all we can to remove legal barriers for veterans so they can access more of their benefits and the services they need. Two leading bills in Congress would go a long way towards doing just that.

The VA, national Veterans Services Organizations (VSOs), and the legal community are united behind the Legal Services for Homeless Veterans Act, H.R. 3749, and the Homeless Veterans Prevention Act, S. 980 (Section 3). These bills would not increase federal spending or give any extra funding to the VA. They would however give the VA Secretary the authority to use funds it already has to partner with VSOs and other organizations for the sole purpose of providing legal services to homeless veterans. As innocuous as that sounds, this legislation has been introduced each Congress since 2013, and passed the Senate twice, but anonymous opposition has prevented consideration of this bipartisan legislation in the House. Until now.

People came together last year to lift and surround the House legislation with vocal support so that opposition could not remain anonymous. It paid off: in February 2020, H.R. 3749 sailed through the House of Representatives by voice vote! The prospects for the Senate bill look positive, but progress has stalled over an unrelated provision in S. 980. Our concern is that the delay or a subsequent closed-door conference committee could leave the legislation vulnerable, again.

***In the time of coronavirus***

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

The spread of the coronavirus throughout the United States has made matters worse for veterans. Veterans already living on the streets or in crowded shelters are at increased risk of contracting the virus and failing to get the medical help necessary to recover or prevent its spread. Like other Americans, many veterans are also facing layoffs, evictions or other economic hardships caused by the COVID-19 pandemic. The resulting rise in homelessness and demand for available medical resources could mean less availability for services to veterans, including mental health services or other government programs on which homeless veterans rely.

### ***How you can help this year!***

*Advocacy During ABA Day Digital*  
Wednesday, April 22<sup>nd</sup> | 12:30 pm - 2:00 pm EST

On April 22<sup>nd</sup>, from 12:30 to 2:00 pm EST, join the ABA and Governmental Affairs Office to urge Congress to give the VA authority to fund legal assistance for veterans when they think it will help break down barriers that prevent them from getting the services they need and earned.

While we had to cancel the in-person portion of ABA Day, we are still poised to advocate on important issues like veterans' legal services during our first fully online annual advocacy event.

Just log on to the #ABADay Digital [website](#) and see links to **take action** quickly using preformatted emails and social media messages to support giving VA the authority it needs and wants to fund legal assistance to veterans and have an immediate impact on policymakers making important decisions on Capitol Hill. You can also personalize these messages to have even more of an impact.

While there, you can also explore advocacy campaigns on our three other #ABADay Digital issues – funding for the Legal Services Corporation, preserving Public Service Loan Forgiveness, and expanding broadband access for rural America – and send messages to help effect change in those areas too.

### ***More opportunities to engage***

In addition to sending messages to Congress, ABA Day participants with more time are encouraged to join live panels, TEDtalk-like presentations, Twitter takeovers, Tweetstorms, and more, punctuated with specific advocacy actions throughout the day.

For more details on our discussions on legal assistance for veterans on April 22 and other #ABADay Digital activities on April 22 and 23, click [here](#).

March 31, 2020

# Expanding Broadband Access to Rural Communities

## Expands Access to Justice

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Having access to affordable and reliable broadband has become one of the most critical infrastructure challenges of our time, just like electricity, transportation and roadways were in the past. Many communities across America lack adequate and affordable internet service or do not have access at all, creating a “digital divide” between those who live in cities and those who live in rural areas. According to the most recent statistics available, over 20 million Americans do not have broadband or high-speed internet access - and most of them live in rural communities.

Extending broadband to rural America is critical for many well-documented reasons, including robust economic growth, enriched educational opportunities, increased access to healthcare through telemedicine, improved public services and safety, and civic engagement. Just as important, expanding access to affordable and dependable high-speed internet is critical to improving access to justice for Americans living in rural communities. Without adequate high-speed internet, attorneys and self-represented litigants in rural areas face extremely high barriers, and these communities cannot attract new lawyers. The result is a pressing access to justice issue.

Numerous bipartisan bills have been introduced in Congress to bridge the digital divide and expand broadband to rural communities. These include bills that would create new funding streams, increase subsidies to states, establish an Office of Internet Connectivity and Growth to unify and streamline the management of federal broadband resources, and remove regulatory impediments. Most important, the Broadband Data Act, just signed into law (Public Law 116-130) on March 23, will improve the accuracy of the Federal Communications Commission’s (FCC) broadband availability maps by strengthening the process by which broadband data is collected. These maps are used to allocate federal funding to expand broadband to rural areas.

### *In the time of the coronavirus*

Enactment of this legislation is a major victory, but much more needs to be done by federal, state and local governments. Inadequate access to high-speed internet disadvantages those living in remote areas in critical ways that have become even more apparent as a result of the changes to daily life brought about by the spread of the coronavirus.

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

Students across the country are trying to attend school through distance learning and medical professionals are trying to use telemedicine to expand access to much needed services, but inadequate broadband is hampering those efforts in many geographic areas. Recognizing the need to do more, Congress has already included \$100 million for grants to increase broadband access in rural communities where at least 90% of households do not have adequate broadband, plus \$25 million to expand broadband access for distance learning and telemedicine services in the Coronavirus Aid, Relief, and Economic Security (CARES) Act that the President signed into law on March 27 (Public Law 116-136). It will take time and more appropriations to expand this capability, but we need to persevere in our efforts to bridge the digital divide, no matter how many years it takes.

### ***How YOU Can Help This Year!***

*Advocacy During ABA Day Digital*  
Wednesday, April 22<sup>nd</sup> | 3:30 pm-4:30 pm EST

On April 22<sup>nd</sup>, from 3:30 to 4:30 pm EST, we urge you to join the ABA and Governmental Affairs Office to educate the Hill about the importance of expanding broadband access to rural America during #ABADay Digital. While we had to cancel the in-person portion of ABA Day, we are still poised to advocate on important issues like adequate broadband access during our first ever fully online annual advocacy event.

Just log on to the #ABADay Digital [website](#) and see links to **take action** quickly using preformatted emails and social media messages to support expanding broadband access and have an immediate impact on policymakers making important decisions on Capitol Hill. You can also personalize these messages to have more of an impact.

While there, you can also explore our advocacy campaigns on our three other #ABADay Digital issues – funding for the Legal Services Corporation, preserving Public Service Loan Forgiveness, and helping veterans get increased access to legal services – and send messages to help effect change in those areas too.

### ***More opportunities to engage***

In addition to sending messages to Congress, ABA Day participants with more time are encouraged to join live panels, TEDtalk-like presentations, Twitter takeovers, Tweetstorms, and more, punctuated with specific advocacy actions throughout the day.

For more details on our expanding broadband access discussions on April 22 and other #ABADay Digital activities on April 22 and 23, click [here](#).

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

March 30, 2020

# Protect the Attorney-Client Privilege and Right to Effective Counsel

## Ensuring Fairness in the Federal Prison System

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The attorney-client privilege is fundamental to ensuring fairness in the justice system and vital to securing the candor and cooperation a lawyer needs to effectively represent and serve his or her client. That is why it is extremely troubling to discover that the email system used in federal prisons forces inmates to submit to routine monitoring and review of all their email communications—including confidential emails with their lawyers—which we wrote about in [January](#).

Fortunately, Congress is now considering bipartisan legislation sponsored by Reps. Hakeem Jeffries (D-NY) and Doug Collins (R-GA) that directly addresses this issue. H.R. 5546, known as the Effective Assistance of Counsel in the Digital Era Act, would stop the government from monitoring inmates' privileged emails with their lawyers, a practice that is both improper and exposes those involved to unnecessary health risks in today's environment.

### ***In the Time of the Coronavirus:***

Under the current system, prisoners with confidential legal questions or concerns often avoid using email, instead requesting a personal visit or an unmonitored phone call with his or her lawyer. After the lawyer arrives and checks in, both the lawyer and the client must be secured, searched, and transferred to the visiting area by different teams of correctional officials, during which time the staff are not available for other duties and the lawyer not available to other clients. Although there are valid security interests, the process is time consuming and inefficient.

Phone calls are more time efficient, but they are not a perfect substitute. If a prisoner requests an “unmonitored legal call” with his or her lawyer, multiple correctional staff still must be involved. These requests are usually coordinated by a counselor who must also be available during the call. The prisoner may need to be transferred to the call location where the phone call is placed by staff to verify the recipient. And while these calls should be private, facilities are often built in such a way that prison staff may be listening to the inmate's side of the call for its duration.

H.R. 5546 strikes the right balance between legitimate law enforcement interests and the need to protect attorney-client confidentiality. Although the bill bars the government from

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

improperly accessing privileged emails or using that information in court proceedings, it allows the government to retain the contents of inmate emails until he or she is released from prison, access non-privileged emails with a court warrant, and review the emails to the extent needed to determine which are privileged. Implementing the protections of H.R. 5546 makes sense on a practical level for everyone involved in normal times, but it makes even more sense during emergencies like the COVID-19 pandemic for vital health and safety reasons.

Advocacy During ABA Day Digital  
Thursday, April 23<sup>rd</sup> | 11:00am-12:00pm

On Thursday, April 23<sup>rd</sup>, from 11:00 am-12:00 pm we will be highlighting as a secondary #ABADay Digital issue the importance of passing H.R 5546 because it is the right thing to do for the criminal justice system, is a more efficient use of limited resources, and is especially important for health and welfare reasons during emergencies like COVID-19.

We will start our session to protect the attorney-client privilege in prisons with a TEDtalk-like presentation on the issue at 11:00 am, followed by a tweetstorm featuring the hashtag #ClientPrivilege.

We need **YOU** to join our call to action at 11:30 am to send emails or make phone calls using preformatted messages on our Grassroots Action Center that are guaranteed to get through congressional firewalls. Each of these messages can be edited and personalized for even more impact.

Just log on to the #ABADay Digital [website](#) and see links to **take action** quickly to protect the attorney-client privilege in prison and have an immediate impact on policymakers making important decisions on Capitol Hill.

For more details on protecting the attorney-client privilege in prison and other #ABADay Digital activities, click [here](#).

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

March 31, 2020

## COVID-19 Stimulus Bill Includes More than \$1B for Criminal Justice Needs

*This story was originally published in the ABA Journal [here](#) on March 26, 2020.*

Updated: The \$2 trillion COVID-19 [stimulus bill](#) passed by the Senate on Wednesday includes more than \$1 billion for criminal justice needs, including protective gear for prisons and teleconferencing equipment for the federal judiciary.

[Roll Call](#) and [Law360](#) have stories on the bill, which goes next to the House of Representatives. The bill includes:

- \$1 billion for the U.S. Justice Department, \$850 million of which would provide grants for state and local governments for criminal justice needs. Those needs may include overtime costs, personal protective equipment and medical costs.

Another \$100 million would go to the U.S. Bureau of Prisons for protective equipment, supplies, medical care and overtime. Other money would help cover the costs of bringing home law enforcement personnel stationed overseas and enhancing telework capabilities.

- \$7.5 million for the federal judiciary. The money includes \$500,000 for the U.S. Supreme Court to enhance telework capabilities, \$6 million for federal courts to increase telework capabilities and cover higher costs of pretrial and probation services, and \$1 million for U.S. Defender Services to expand remote work capacity.

About \$4.5 million of the federal judiciary funds would cover individual mental health and drug treatment for defendants who typically receive the probation and pretrial services in a group setting, according to [prior coverage](#).

- \$50 million for the Legal Services Corp. to address the increased need for legal services due to the novel coronavirus. The LSC had estimated it needed an additional \$100 million.

ABA President Judy Perry Martinez [had supported](#) extra money for the LSC, saying it is needed to help clients facing unexpected job loss, housing issues, domestic violence and health care-related crises.

The bill would also:

ABA Governmental Affairs Office  
*The Washington Letter*, March 2020 Edition

- Temporarily allow more video and audio conferences in several federal court settings, including detention hearings, initial appearances, preliminary hearings, arraignments, and misdemeanor pleas and sentencings, according to Law360.

Felony pleas and sentencings also could be held remotely if they “cannot be further delayed without serious harm to the interests of justice.”

- Authorize the Justice Department to extend temporarily the time cap on home confinement, according to Roll Call. Currently the cap is six months or 10% of the inmate’s sentence, whichever is shorter.
- Allow the Bureau of Prisons to quickly create new rules to allow free video and telephone visitations with inmates.

The House passed the stimulus bill Friday, the [Washington Post](#) reports. President Donald Trump signed the bill the same day.

ABA President Judy Perry Martinez on Friday released [this statement](#) about the stimulus package:

“Prisons and jails are some of the highest-risk environments for the spread of COVID-19. The ABA is encouraged that the COVID-19 economic stimulus package approved by Congress includes provisions to allow prisons greater access to personal protective equipment and COVID-19 testing materials. The ABA is further encouraged by the bill’s provisions that expand use of home detention and electronic monitoring. The availability of these alternatives to incarceration should be considered particularly for individuals whose cases are still pending.

“The ABA is disappointed the bill fails to include provisions to increase access to release for older and infirm prisoners, but commends a separate action taken by the Department of Justice which directs federal prison authorities to identify elderly and medically compromised inmates for home confinement.

“The ABA also applauds state and local prosecutors, courts, law enforcement officers and corrections officers who are seeking practical alternatives to incarceration for nonviolent offenders, especially during this national emergency.”

*Updated March 27 at 1:30 p.m. to include information on House passage and Martinez’s statement.*