

Memorandum in Support

NYSBA #10

February 1, 2019

S. 1501

By: BUDGET

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Senate Committee: Finance

Assembly Committee: Ways and Means

THE NEW YORK STATE BAR ASSOCIATION SUPPORTS APPROVAL OF THE JUDICIARY BUDGET

New York's courts adjudicate millions of disputes, both great and small, and guarantee a 'day in court' to all people, including the weak, the poor and the unpopular. Our courts also serve those who rely them to resolve business and commercial disputes, which is important to the state's economy and to ensuring that New York continues to be one of the business, financial and legal centers of the world. The courts are also central to our criminal justice system and matters involving family relationships. In short, the effective operation of the court system is crucial to maintaining an orderly society.

2019-2020 JUDICIARY BUDGET REQUEST

According to the Office of Court Administration (OCA), the state Judiciary's budget requests **\$2.18 billion, an increase of \$42.7 million (2.0%)** over current year funds.

The request seeks funds so that the court system may fulfil its mission to deliver justice in accordance with the rule of law. A significant component of the mission that this budget request would fund is Chief Judge Jane DiFiore's Excellence Initiative -- the evaluation of court operations and administration with the goal of overall "operational and decisional excellence." A primary focus of the core mission of the initiative is the fair and prompt adjudication of each case in the court system. We support this effort to eliminate delay and backlogs in court operations, while still ensuring access to justice for all.

The Judiciary's submission states that "this budget will enable the courts to pursue their mission to provide justice efficiently, fairly and with excellence." The New York State Bar Association (NYSBA) enthusiastically supports that goal and the funding to facilitate it.

Funding Civil Legal Services

Funding for civil legal services has been among the NYSBA's highest priorities for many years. Unfortunately, the need for civil legal services continues to be a significant concern.

Proper state funding of critically-needed programs and resources is necessary to meet the urgent needs of low-income New Yorkers to protect the essentials of life. New York's lawyers have shown their commitment to voluntary pro bono efforts, contributing an estimated two and one-half million hours each year in voluntary pro bono legal services to the indigent. However, these voluntary efforts alone are insufficient to meet current needs. Ultimately, society as a whole, acting through its government, must provide adequate public funding.

In an era when some federal policymakers continue efforts to defund the Legal Services Corporation, the need for responsible action in New York State is all the more critical. New York must provide a steady source of funding targeted to ensuring legal representation to protect the "essentials of life" – housing, preventing or escaping from domestic violence, or access to health care. NYSBA strongly supports the inclusion of \$85 million for civil legal services within the Judiciary's budget request, the same level requested last year and included in the final 2018-2019 Public Protection Budget.

Support for IOLA

NYSBA was one of the original advocates for the formation of the Interest on Lawyer Account (IOLA) Fund. The IOLA Fund, which the Legislature created in 1983, is funded by the interest earned on moneys held by attorneys for clients and deposited in interest-bearing accounts at the discretion of attorneys and law firms. The accumulated interest is transferred to the IOLA Fund, where it is used to provide grants to legal service providers around the state. Concern in recent years has stemmed from the impact that low interest rates have had on the fund.

For the past several years the Judiciary budget has included a \$15 million allocation for the IOLA Fund to help offset the low revenues due to low interest rates and a reduced number of real estate transactions. We support the inclusion of this item in this year's budget and appreciate the Legislature's recognition of the importance of this funding in previous years. We strongly urge you to continue your support for this appropriation. Accordingly, we recommend that the Legislature:

- Approve the Judiciary budget, to ensure access to justice and proper operation of the courts;
- Approve the Judiciary's request of \$85 million for civil legal services; and, Approve the Judiciary's request for \$15 million to support the Interest on Lawyers Account (IOLA) Fund.

CONCLUSION

The New York State Bar Association respectfully submits that legitimate budgetary concerns should not evolve into justification for diminishing "access to justice" in New York, thereby inflicting costly and unjustifiable damage to our institutions.

Access to justice is the primary focus of NYSBA's legislative advocacy. That concept helps distinguish and define us as a nation where freedoms flourish under the rule of law.

Only in America can an impoverished and possibly unpopular individual invoke the power of the world's most prestigious legal system to protect his or her rights. That has been, and must continue to be, a source of great pride and great strength for all New Yorkers and all Americans.

We urge your continued commitment to protecting against erosion of that right, and to ensuring the public's trust and confidence that our system provides access to that right.