

New York State Bar Association

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Memorandum in Support

NYSBA Memorandum #16

February 21, 2014

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By: BUDGET

A. 8551

By: BUDGET

Senate Committee: Finance

Assembly Committee: Ways and Means

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

BUDGET OF THE UNIFIED COURT SYSTEM

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, as well as those who rely on our courts to resolve their business and commercial disputes, which is important to the state's economy and to ensuring that New York continues to be the business, financial and legal center of the world. The effective operation of the court system is crucial to maintaining an orderly society.

2014-15 JUDICIARY BUDGET REQUEST

New York's Unified Court System is recognized as one of the largest and busiest court systems, not only in the United States, but in the world.

The Judiciary's budget request reflects a balancing between the constitutional duty to ensure access to justice for all New Yorkers and the obligation to reduce costs wherever possible.

The Judiciary budget currently seeks cash funding of \$1.81 billion for General Fund State Operations, to support court operations. This request represents an increase of \$44.2 million, or 2.5 percent.

The State Bar supports the Judiciary's 2014-15 budget request, in large part, because it would end the 4:30 pm closing time for courtrooms, enhance courtroom security, partially restore the functioning of the offices of the clerks, and, in general, rebuild necessary components of the court system's workforce.

A primary concern of the State Bar in recent years has been that budget cuts have resulted in the Judiciary's inability to keep courtrooms open beyond 4:30 pm.

In addition, we support the Judiciary's proposed budget because it is intended to stop the decline of the workforce of the courts and address the impact of that decline on the operation of the courts.

The workforce reduction has already had a significant impact on court operations. In many courthouses there are insufficient court officers and court clerks to fully staff all courtrooms, with reduction in security and resulting delays in courtroom proceedings. At times back office staff has been needed to open courtrooms, with the result that back office functions are deferred, causing a growing backlog in the processing of judgments and motions.

In sum, the budgets in recent years have had a real impact on court operations – an impact felt by litigants and their counsel, by jurors, and by judges and court personnel. These negative impacts would be exacerbated if the Judiciary does not receive the budget it requested. We urge funding that addresses the severe impact of previous budget cuts on New York's justice system.

SUPPORT FOR IOLA

The State Bar was one of the original advocates for the formation of the Interest on Lawyer Account ("IOLA") Fund. The IOLA Fund 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. Naturally, we have a great concern over the impact that the weak economy and low interest rates have had on the Fund.

For the past four years the State Bar applauded the Legislature's approval of the Judiciary's \$15-million allocation for the IOLA Fund, to help offset declining IOLA revenue due to low interest rates and the decline in the number of real estate transactions. **We strongly urge you to continue your support for this appropriation.**

TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES

Chief Judge Jonathan Lippman established the Task Force to Expand Access to Civil Legal Services in New York as part of his efforts to ensure that the courts can meet their constitutional mission of ensuring equal justice for all citizens. The Task Force included judges, lawyers, business executives, and labor leaders from all parts of the state. During the fall, for the fourth consecutive year, the Chief Judge presided over a set of public hearings in each of the state's four Judicial Departments. Members of the State Bar Association assisted in presiding over these hearings. The hearings continued to assess the extent and nature of unmet need for civil legal services throughout the state.

Last November, the Task Force released its fourth report on this issue, which, as with the first three reports, provides recommendations to address the need to provide counsel to low-income New Yorkers in civil cases. The findings of the Task Force are overwhelming. The quality of justice in New York's courts is diminished and the rule of law undermined when so many New Yorkers go without legal representation in matters that

involve day-to-day life. More than 2.3 million litigants still attempt to navigate the complex civil justice system without a lawyer each year.

Among the findings of the 2013 Report of Chief Judge's Task Force are the following:

- a. A continuing unmet need exists for civil legal services for low-income families and individuals in all areas of the state.
- b. The continuing unmet need for civil legal assistance in all areas of the state has a negative impact on the functioning of the courts, businesses and government, and a profound impact on vulnerable families and individuals.
- c. Analyses demonstrate that, as a result of the efforts of the civil legal services providers:

The value of federal funds brought into New York State through the provision of civil legal assistance to enable low-income New Yorkers to receive federal benefits has risen to \$457.7 million—an \$80 million increase in value relative to the estimate using data only through 2011.

Considering the recognized economic multiplier effect of this flow of federal funds on New York State, the total economic stimulus deriving from this provision of civil legal aid to low-income New Yorkers through 2012 comes to \$679 million, compared with a previously estimated economic stimulus of \$561 million for cases closed through 2011—more than a 20 percent increase in economic benefit for the State relative to the prior year.

The economic activity resulting from the provision of these civil legal services generated 6,776 jobs—up from 5,600 in the prior year.

If these economic multiplier effects remain stable, as shown in NERA's analysis for the 2012 Task Force Report, the inflow of funds in 2012, together with the future value created, result in overall economic benefits to New York State in excess of \$1.5 billion.

The State Bar applauds Chief Judge Lippman and the Task Force for continuing this important work to help address the crisis faced New Yorkers and our court system because of unmet civil legal needs.

Lawyers are committed to doing their share. The bar contributes an estimated two million hours a year in voluntary pro bono legal services to the indigent. Pro bono efforts by the bar have been extensive. However, these voluntary efforts alone are insufficient to meet the needs of the indigent. Ultimately, society as a whole, acting through its elected leaders, must provide adequate public funding to do so.

New York must be able to provide a steady source of funding targeted to the “essentials of life” – housing, preventing or escaping from domestic violence, access to health care – reliably and quickly. Accordingly, the Judiciary’s proposed budget includes \$55 million to continue to implement the Task Force’s recommendations to address the crisis in civil legal services.

In an era when some members of Congress continue to call for the elimination of the Legal Services Corporation, the need for responsible action in New York State is all the more critical. **The New York State Bar Association strongly supports the Judiciary’s \$55 million request for civil legal services.**

CONCLUSION

Based on the foregoing, the New York State Bar Association **SUPPORTS** approval of the Judiciary Budget.