



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

113 MAY 2020

BOARD EXECUTIVE COMMITTEE III.D

DATE: May 12, 2020

TO: Members, Board Executive Committee
Members, Board of Trustees

FROM: Linda Katz, Principal Program Analyst, Mission Advancement and
Accountability Division

SUBJECT: Approval of Addition to Legislative Priorities

EXECUTIVE SUMMARY

The Board of Trustees approved 2020 legislative priorities at its January and March meetings. This item requests that the Executive Committee and Board approve one addition to the 2020 legislative priorities.

BACKGROUND

In 2018, the Board adopted a new legislative program that established criteria for the Board to consider in taking positions on proposed legislation and in advancing legislative proposals. The purpose of the State Bar's legislative program is to monitor legislative activity, and represent and advocate for the State Bar on legislation, policy, and budget matters before the Legislature and the governor. This agenda item sets forth an addition to the legislative priorities for 2020 that were adopted at the January and March meetings of the Executive Committee and the Board of Trustees. Specifically, this item seeks the Board's approval of a letter of support for the Assembly Judiciary Committee's budget request to increase the Equal Access fund by \$35 million in support of legal services programs.

DISCUSSION

The Chair of the Assembly Committee on the Judiciary anticipates significant growth in

the need for legal services due to the COVID-19 pandemic and shelter in place orders implemented to combat its effects. The economic effect of these orders is contributing to declining interest rates, negatively impacting the funds available to support legal services.

One of the primary funding mechanisms for legal aid programs is the Interest on Lawyers' Trust Accounts (IOLTA) program, which collects bank interest paid on client trust funds held by all California attorneys where the funds do not warrant setting up a separate account, either because they are small in amount or are held for a short period of time. As a result of a dramatic drop in interest rates, IOLTA funds are projected to drop by over 80 percent in two years, from \$46.5 million in 2019 to \$14.5 million in 2020 and just \$8.2 million in 2021 and beyond. To help mitigate this funding shortfall, the Assembly Committee on Judiciary has submitted a budget request to provide a \$35 million increase to the Equal Access Fund, a partnership between the courts and legal aid, which offers funding to local legal aid organization to provide direct legal services to low-income Californians in civil matters. This agenda item requests authorization to support the Assembly Committee on Judiciary's efforts to secure this funding, including a letter of support from the Board Chair.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to legal services for low- and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

Objective: a. Support increased funding and enhanced outcome measures for Legal Services.

RECOMMENDATIONS

Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, Board Executive Committee recommends that the Board of Trustees approve the addition to the State Bar's 2020 legislative priorities included in this item.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee approve the addition to the State Bar's 2020 legislative priorities included in this item.

ATTACHMENT(S) LIST

- A.** Letter from Assemblymember Stone re Assembly Committee on Judiciary Budget Request

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March 31, 2020

Assemblymember Phil Ting
Chair, Assembly Committee on Budget
1315 10th Street, Room 6026
Sacramento, CA 95814

Re: Revised Assembly Committee on Judiciary Priorities in Light of COVID-19

Dear Chair Ting:

On behalf of the Assembly Committee on Judiciary, and in response to your updated Member request of March 30, 2020, I am writing to revise the Committee's budget priorities for the fiscal year 2020-2021 budget given the ongoing COVID-19 pandemic, the changing needs of Californians based on the pandemic and the ensuing economic collapse, and the impacts of those on the state budget.

In my original letter, I had urged the Budget Committee to (1) mandate that courts comply with enhanced court oversight in conservatorship cases; (2) require courts to provide greater feedback and accountability regarding trial court operations and use of new fund allocations; and (3) provide better support for unrepresented litigants. These remain important priorities necessary to ensure meaningful access to justice for all Californians. *However, in light of the current public health emergency, there is an urgent need to better support legal services programs across the state, and I am therefore revising our Committee's budget request to reflect this new reality.*

Every year, legal services programs assist over 300,000 Californians with issues ranging from housing, health and long-term care, to income maintenance, immigration, disability rights, and family law. Nonprofit legal aid organizations have become the state's invisible legal safety net for all low-income Californians, including immigrants. Currently, California legal aid organizations rely on \$20 million in state General Fund dollars to support their work—a funding amount that provides support for less than one-third of California's poorest residents. Many indigent Californians who are desperate for assistance are unable to successfully navigate the court system or present meritorious legal arguments on their own. As a result, these unrepresented litigants consume significant court resources, create delays in court calendars, and fail to adequately represent themselves.

The COVID-19 pandemic and shelter-in-place declarations have created significantly greater demand for the provision of legal services to serve as a civil justice enforcement mechanism for laws and regulations designed to protect Californians from harm, including for unlawful

evictions and firings, expedited access to unemployment benefits, incorrect termination or reduction of public benefits, access to needed health care and insurance, and domestic violence restraining orders. California legal services programs must be able to help residents across the state address these urgent legal needs.

At the same time that the need for legal services is increasing exponentially, the funds available to support legal services will be dropping significantly. One of the primary funding mechanisms upon which California has traditionally relied to fund legal aid programs has been the Interest On Lawyer Trust Accounts (IOLTA) program, which collects bank interest paid on client trust funds held by all California attorneys where the funds do not warrant setting up a separate account, either because they are small in amount or are held for a short period of time. The recent, dramatic plunge in interest rates now poses an unprecedented challenge to the premise that legal aid programs can rely on IOLTA funding to maintain their essential mission. As a result, the State Bar projects that IOLTA funds will drop by over 80 percent in two years, from \$46.5 million in 2019 to \$14.5 million in 2020 and just \$8.2 million in 2021 and beyond. Legal aid programs in California will be provided with only a fraction of their usual IOLTA support, both for the current year and the budget year, and most cannot expect to replace that loss with other sources of funding.

California needs to be the steward of progressive values punctuated with prudent sensibility, but most of all, we must minimize the harms caused to our residents by the COVID-19 pandemic. Supporting legal aid achieves all of these goals. Studies have shown that for every one dollar spent on legal aid, there is a return of six dollars to the state. If there is no increase, California will lose the valuable economic resource provided by legal services and leave vulnerable Californians without access to our courts, especially important during this time of crisis.

For these reasons, I am writing to express the Assembly Committee on Judiciary's highest priority: to *increase the Equal Access Fund by \$35 million* in order to ensure real access to the courts for all Californians during this emergency public health crisis. The Equal Access Fund—a partnership between the courts and legal aid—offers funding to local legal aid organizations to provide direct legal services to low-income Californians in civil matters.

In addition, I request that the Budget include a very small allocation (\$200,000) for the cost of convening a committee to study proposed changes to the Commission on Judicial Performance (CJP). The ongoing public health crisis has highlighted the extent to which the public and policy makers rely upon the Judicial Branch of government to fairly administer the laws and manage operation of the courts. It is imperative that the public trust judicial officers and the court system in general. The recent audit of CJP discovered structural and procedural weaknesses. These problems should be addressed in a comprehensive and holistic manner by a group of experts in judicial ethics, rather than in a piecemeal fashion, as is likely if a committee is not formed and authorized via Budget trailer bill language.

I thank you for your consideration of the Judiciary Committee's revised budget request in light of the COVID-19 pandemic and look forward to working with you to ensure that our state courts remain accessible to provide access to justice for low-income Californians who are at grave risk

of losing their homes, their healthcare and health insurance, their public benefits, and their livelihood, as well as at heightened risk of domestic violence.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stone". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Stone
Chair, Assembly Committee on Judiciary