Joint Legislative Public Hearings on

2024-2025 Executive Budget Proposal

Public Protection

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Testimony by

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Introduction

Thank you for the opportunity to testify on this year's Executive Budget. My name is Kristin Brown and I am President and CEO of Empire Justice Center. I am also co-vice president of the New York Legal Services Coalition and serve as co-chair the Coalition's Steering Committee; the coalition consists of nearly 50 member organizations providing essential civil legal services to low-income and disadvantaged individuals throughout New York State. I also serve as a member of the New York State Unified Court System's Permanent Commission on Access to Justice.

Empire Justice Center is a statewide, multi-issue, multi-strategy not-for-profit civil legal aid provider focused on changing the complex systems impacting low income and marginalized New Yorkers. With a focus on poverty law, Empire Justice takes a 360-degree approach to the areas of law we practice in, providing individual legal representation, policy research and analysis, training and technical assistance as well as impact litigation. Our work cuts across all significant areas of poverty law and involves three inter-related services:

We practice the law: Empire Justice Center provides a range of legal assistance from our offices in Rochester, Albany, Yonkers, White Plains, Central Islip, and Hempstead. We provide one on one representation and undertake impact litigation to address systemic issues impacting low income and marginalized communities.

We teach the law: Our history as a backup center for civil legal services providers began in the 1970's and has developed so that we now also provide training, technical assistance and other

support services to a variety of other community-based organizations, keeping them apprised of changes in the law and regulations.

We change the law: In order to ensure that the needs of low-income families are heard within the state's policy making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients and we do the same as needed at the local and federal levels.

In today's testimony, I am respectfully asking you to consider the following:

1. **Reject the proposal in the Executive Budget to sweep $100 million from Interest on Lawyers Account (IOLA) to the General Fund.**
2. **Support a multi-phase plan to achieve pay equity across government funded public interest legal systems.**
3. **Support the proposal in the executive budget to ensure funding for services for victims of crime.**
4. **Support the Office of Court Administration (OCA) budget proposal to including cost of living increases for Judiciary Civil Legal Services and IOLA funding and 3% funding increase for JCLS.**

Reject the proposal in the Executive Budget to sweep $100 million from Interest on Lawyers Account (IOLA) to the general fund.

Empire Justice Center is deeply concerned about the proposal Executive Budget to sweep $100 million from the Interest on Lawyers Account to the general fund. IOLA funding not only

supports essential services that help low-income New Yorkers obtain help with civil legal problems affecting their most basic needs, such as food, shelter, jobs and access to health care, it is a critical source of infrastructure dollars that the civil legal services community is in desperate need of. These funds are accumulated for distribution at the next round of grants to civil legal services providers, which are intended to assist in addressing the dual crises of an estimated $ 1 billion civil justice gap and community wide salaries that are at least 30% below counterparts in similar public interest and public sector fields.

There is an IOLA or IOLTA fund in every state across the country. Here in New York our fund was established in 1983, under New York State Finance Law (§ 97-v). With the recognition of the vast need for to fund civil legal services, these funds were created for the sole purpose of funding civil legal assistance. The legislative intent was as follows:

> *Legislative findings and declaration.* The legislature finds that the availability of civil legal services to poor persons is essential to the due administration of justice. ***The purpose of this act is to provide funding for providers of civil legal services*** (emphasis added) in order to ensure effective access to the judicial system for all citizens of the state to extent practicable within the means available for that purpose.
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> The Interest on Lawyers Account (IOLA) fund established by this act will be authorized to receive funds from any source for disbursement to nonprofit legal services providers for charitable purposes, including the delivery of legal services in civil matter to poor persons. The IOLA fund will receive the interest earned by qualified client funds held by attorneys in unsegregated interest-bearing accounts designated IOLA accounts. Funds which qualify for deposit in IOLA accounts are those which, in current practice, attorneys do not deposit in segregated accounts because insufficient interest would be earned to justify the expense of administration. When pooled in an IOLA account, funds which would be unproductive as individual accounts will generate income, the ***beneficial***

interest in which will be held by the IOLA fund exclusively for charitable purposes (emphasis added) [1].

Even during the most extreme financial crises in the past, IOLA funds have never been swept or used for any other purpose than to provide civil legal services to low-income New Yorkers. Now is not the time to divert or undermine the purpose of this critical resource.

IOLA distributes the accumulated interest dollars through competitive requests for proposals issued every two years. IOLA also collects and distributes outcomes and they are impressive. In 2023, IOLA grantees closed over 307,000 client cases, benefiting over 639,000 low-income New Yorkers. The top five areas of service from 2023 are housing, immigration, family law, education and health.

Since its inception, interest rates have fluctuated wildly. In the early days, this resulted in dramatic swings in funding for civil legal services, causing uncertainty and financial crisis for providers and loss of services for client communities. To guard against this, IOLA rightly shifted to a "rainy day" approach that creates a reserve of funds that can be used to avoid cuts in funding and thus civil legal services during periods where interest rates and thus earnings are low. This funding stability has been a godsend.

Furthermore, this attempted sweep could not come at a worse time. The civil legal services community faces a complex crisis. The value of and need for civil legal services has never been more front of mind in our state. Recognition that there is no civil Gideon for folks facing bankruptcy, loss of home, healthcare – the essentials of life – has grown among the public and

[1] Chapter 659 of the laws of 1983

policy makers as a result of educational efforts. The Access to Justice Gap, the space between the civil legal needs of low-income New Yorkers and the resources available to meet those needs has now been documented and assessed at a $1 billion over what is currently in the system. As noted in the Permanent Commission on Access to Justice's 2023 report to the Chief Judge, "the Permanent Commission recently adopted its Funding Working Group's report finding that between $842 million and $1 billion is a realistic estimate of the additional annual funding, over and above existing funding, to close the justice gap."[2] Notably, this analysis focuses only on those earning up to 250% of poverty and does not include immigration related legal services.

Demand and need for our community's services is vast, but the resources are not there, leaving far too many New Yorkers facing life altering legal junctures without an attorney who understands the process. At the same time, salaries, in comparison to any other government funded attorney services are so low, it is becoming impossible to compete with state, county and city positions. With the well deserved and long overdue increase in rates for assigned counsel in criminal matters, civil legal services salaries have fallen even further behind. The IOLA funds that are to be swept are slated to help address these very issues.

The New York Civil Legal Services Coalition is preparing a white paper that will be released in the near future to shed additional light on this issue, but as an overview, New York's civil legal services providers, like Empire Justice Center, which provide legal services to low-

[2] Permanent Commission on Access to Justice's 2023 report to the Chief Judge, November 2023. https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/23_ATJ-Comission_Report.pdf

income New Yorkers on behalf of the state, are funded at levels that hold entry-level salaries at 30% to 45% lower than other government funded legal services providers, and those inequities only grow throughout their careers. The widening salary gap is making it increasingly difficult to attract and retain legal talent and do the work that we are contracted with the state to do. Unfilled positions result in clients not served – unlawful evictions executed, homes lost to foreclosure, lifesaving health coverage not received.

In addition, IOLA has just launched a multi-year Justice Infrastructure project that will assist our under resourced community improving the delivery of services and create efficiencies across programs. The accumulated funds are what made it possible for the IOLA Fund to pursue this project.

We need the legislature's support in addressing the needs of our client community through rejecting the proposal in the executive budget to sweep funding from IOLA. IOLA has been a key partner in all of our efforts to increase services and more recently to address pay parity. There is increased appropriation authority in the Executive Budget for IOLA to take a first step forward, with the expectation that the next round of competitive funding will be significantly larger and utilized to address both the crisis in salaries and the societal imperative to make progress toward closing the Justice Gap for in New York State. These funds, along with OCA's efforts are essential to our community's ability to make gains against the justice gap and to be able to fulfil existing promises for representation through being able to compete against others in our field for employees.

ASK: Reject the $100m sweep of IOLA funds and support pay parity for civil legal services providers

Ensure supports for Victims of Crime

Empire Justice Center is very supportive of the Governor's proposal in the Executive Budget to support services for crime victims through the inclusion of a multi-year commitment of funding to support victim assistance programs through the Office of Victim Services and we urge the legislature to support this. In part, these funds support critical legal services that help victims of domestic violence rebuild their lives, including obtaining divorces and orders of protection, secure the safety and custody of their children, legally terminate joint leases, and assisting in maintaining employment while victims address their immediate needs. Empire Justice Center utilizes these funds to run the Crime Victim Legal Assistance Network, which provides training, resources, support and research to legal services organizations representing crime victims, as well as warm referrals for crime victims. We also provide individual legal assistance to immigrants who are victims of crime on Long Island and in Westchester County.

This funding is critical. As we testified at the Senate Committee on Social Services and Committee on Women's Issues Joint hearing on Human Services Programs for Domestic Violence Survivors last fall, the largest and most crucial source of funding for the Office of Victim Services grants to Victim Assistance Programs is the federal Victim of Crime Act (VOCA) Victim Assistance fund. Yet due to shrinking deposits into the federal Crime Victims Fund, annual VOCA grants to states have declined, and with more uncertainty in the future. This fiscal

uncertainty is especially problematic for legal services, who commit to a client for the length of a case, which may last beyond a grant.

We need a federal solution for this, but, in the meantime, we are grateful that Governor Hochul proposed a multi-year commitment to address this problem

New York can and must take steps to ensure crime victims have access to the services they need, and we urge the legislature to support the governor's proposal.

ASK: Support Governor Hochul's allocation of $20m in this budget and $100m in the next three subsequent budgets to ensure that crime victims have consistent access to critically needed services, including legal assistance.

Support the Office of Court Administration (OCA) budget as proposed including cost of living increases for Judiciary Civil Legal Services and IOLA funding and 3% funding increase for JCLS.

The Judiciary Civil Legal Services (JCLS) funding is a critical revenue source for Empire Justice Center and our peers and is a key element in our ability to help our clients access justice under the law. These funds support provision of civil legal services in the essentials of life. For Empire Justice Center, they primarily support our school discrimination, LGBTQ+ work, which includes providing assistance with name and gender marker changes and improvements to school-based practices, as well as improving access to government benefits, particularly for individuals with disabilities.

We are deeply grateful for the cost-of-living adjustments which help us to address the consistent growth in overhead costs and annual salary increases for staff. We are also very

appreciative of the 3% increase proposed by OCA for our JCLS grants. Of course, we know that we have a long way to go to close the Access to Justice Gap and it will take all branches of government coming together to work toward that goal.

ASK: Support the cost-of-living adjustment and 3% increase in Judiciary Civil Legal Services

Conclusion

Thank you for this opportunity. I am happy to answer any questions you may have.