



NEW YORK
CITY BAR

**REPORT ON LEGISLATION BY THE
PRO BONO AND LEGAL SERVICES COMMITTEE**

**A.10253-A
S.9130-A**

**M. of A. Solages
Sen. Ryan**

AN ACT to amend the state finance law, in relation to allowing certain payments from the IOLA fund to be made without appropriation by law

THIS BILL IS APPROVED

On behalf of the New York City Bar Association, we are writing to express our strong support for A.10253-A / S.9130-A, to prevent the future diversion of funding from the Interest on Lawyers Account (IOLA) Fund by removing it from the annual budget process and allowing the IOLA Board of Trustees to act on their authority to make appropriations to legal services organizations to help close the access to justice gap for low-income New Yorkers.¹

Although the IOLA Fund was created to provide financial support to civil legal services organizations across New York State, taxpayer money is not the source of the Fund's revenue. Rather, the money in the Fund comes from the pooling of interest generated on accounts that attorneys are ethically and fiduciarily required to keep on behalf of their clients. According to the IOLA Fund, there are currently about 50,000 IOLA accounts in nearly 200 participating banks. Attorneys and banks have the ability to use IOLA accounts because of legal ethics opinions, an IRS private letter ruling, and a U.S. Supreme Court ruling validating the IOLA program. These endorsements were predicated on IOLA supporting legal services for low-income individuals.

In April of this year, for the first time in IOLA's forty-year history, funds were used for purposes not determined by IOLA's Board, outside the stated intent of its enabling statute. Over strong opposition,² the FY2025 Enacted Budget diverted \$55 million from the IOLA Fund to

¹ IOLA was created in 1984 and is governed by a Board of Trustees appointed by government leaders. IOLA's enabling statute, State Finance Law §97-v, provides that its revenue "*shall* be distributed ...as grants and contracts to not-for-profit tax exempt entities for the purpose of delivering civil legal services to the poor."

² Statement in Opposition to the Diversion of IOLA Funds – No Matter How Worthy the Cause, New York City Bar Association, April 18, 2024, <https://www.nycbar.org/press-releases/opposition-to-the-diversion-of-iola-funds-no->

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

support other government programs. As legal services and pro bono professionals, we have serious concerns that the precedent set by the FY25 budget process could jeopardize the future of the IOLA program, which New York civil legal services organizations rely on for critical funding. Currently, using an open and competitive RFP process, IOLA provides funding to 80 nonprofit legal services organizations across the state. Last year, IOLA funding resulted in over 307,000 closed cases, benefiting nearly 640,000 New Yorkers³ and generating over \$3.5 billion of economic benefit to New York.⁴

Access to free legal services promotes the health and stability of low-income communities across the state. In the absence of legal representation, low-income communities are unable to assert their rights, which can have devastating consequences, including homelessness, hunger, loss of desperately needed educational and/or employment opportunities, an increased risk of abuse and exploitation, and, for some, the inability to escape abuse and/or exploitation they are already experiencing. Currently, demand for free civil legal services is at an all-time high. Without guaranteed continued access to IOLA funding, legal services organizations will be unable to sustain current service levels and low-income New Yorkers will be denied access to justice.

A.10253-A / S.9130-A will preserve the integrity of the IOLA fund, protecting it from future potential diversion of funds by removing it from the budget process and ensuring that the IOLA Board of Trustees is able to act on its authority to make appropriations to legal services organizations. The New York City Bar Association endorses A.10253-A / S.9130-A and encourages the Legislature and Governor to quickly pass this legislation to ensure continued civil legal support services for low-income New Yorkers.

New York City Bar Association
Susan J. Kohlmann, President

Pro Bono and Legal Services Committee
Hamra Ahmad and Jessica M. Klein, Co-Chairs

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[matter-how-worthy-the-cause/](#) (citing numerous statements in opposition from lawyers, community groups, and legal services organizations) (all websites last visited May 10, 2024).

³ IOLA FY23 Annual Report, page 6, available at <https://www.iola.org/all-documents/grantees/resources-and-reports/general-reports/274-2023-iola-annual-report/file>.

⁴ Permanent Commission on Access to Justice Annual Report, November 2023, pages 55-56, available at <https://ww2.nycourts.gov/accesstojusticecommission/annual.shtml>.