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June 12, 2019

Representative Aaron Michlewitz, Chairperson
House Committee on Ways & Means
State House, Room 243
Boston, MA 02133

Re: Conference Committee on Fiscal Year 2020 State Budget

Dear Chair Michlewitz,

I write as President of the Boston Bar Association (BBA), a volunteer organization of nearly 13,000 members drawn from private practice, corporations, government agencies, legal-aid organizations, the courts, and law schools. Our mission is to advance the highest standards of excellence for the legal profession, facilitate access to justice, serve the community at large, and promote diversity and inclusion. I am writing to respectfully request your support for a number of items in the Fiscal Year 2020 (FY20) Budget, before you and your fellow Conference Committee members. Adequate funding for these items will ensure that the Commonwealth continues to enjoy a judicial system that is efficient, effective, and provides access to justice for all.

MLAC Funding

We thank you and your House colleagues for your past support and are very grateful that you recognize the importance of civil legal aid and the Massachusetts Legal Assistance Corporation (MLAC), the largest provider of funding to legal services programs in the State. While we appreciate the volume of requests before you to fund worthy programs, the demand for civil legal services continues to be overwhelming and more resources are desperately needed to ensure that low-income and elderly residents of Massachusetts receive equal access to justice. We respectfully urge you to **adopt the Senate's appropriation level of \$24 million in funding for the MLAC line-item (0321 – 1600) in the FY20 Budget.**

In 2014, the BBA's *Investing in Justice* report underlined the great need for increased civil legal aid funding when it revealed that MLAC-funded legal services programs are forced to turn away nearly two-thirds of qualified applicants¹. We are appreciative that, since then, the Legislature has provided MLAC with significant increases in its appropriation. Unfortunately, demand also continues to rise, and the turn-away rates have thus remained stubbornly high. Changing federal policies, especially those related to immigration and public benefits, have driven up the demand further, and communities are still adjusting to the impact of Hurricane Maria and other natural disasters. Approximately 45,000 otherwise eligible individuals will be turned away again this year.

As you know, legal aid providers offer critical assistance in a range of matters, including immigration, housing, employment, domestic violence, and health care. The expertise of legal

¹ <http://www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>.

services attorneys helps resolve matters before they become a crisis. Unfortunately, when one is unable to access legal services, the consequences can be devastating, as often one's family, home, health, and job may be at stake in civil legal matters. The consequences extend beyond individuals and families as well. That same *Investing in Justice* report included a survey of judges and found that 60% of those who responded felt the lack of representation negatively affected the court's ability to ensure equal justice to unrepresented litigants. So our whole system of justice suffers when civil legal aid is not adequately funded.

Fortunately, our report revealed more than just the great need for the aid and the consequences of underfunding. The report also shows that legal aid actually pays for itself, and more, by saving the state money on "back-end" costs such as emergency shelter, foster care, and health care. For every additional dollar spent to combat homelessness and domestic violence, the return to the state is \$2, and for every additional dollar spent in legal aid to assist Massachusetts recover federal benefits, the return to the economy is close to \$5. Indeed, MLAC estimates that in FY18, the work of the fourteen MLAC-funded civil legal programs offered an overall economic benefit of \$60.5 million to the Commonwealth.

As a significant step towards expanding access to justice for all, and a sound investment in our Commonwealth and its people, we request you include \$24 million in funding for MLAC in the FY20 Budget.

Trial Court

As you know, the Trial Court is comprised of seven departments which handle all of the cases filed in the Commonwealth's courts and represent the main point of contact for Massachusetts residents who have legal issues they need resolved.

In spite of steady, generous increases in their appropriations from the Legislature in the years since the Great Recession, the Trial Court remains underfunded. Over the last few years, it has made great strides in finding ways to work smarter and leverage technological advancements to get more done with less. As a result of this work, they have been able to continue the efficient and effective operation of the courts, even with a 17% reduction in staffing between FY09 and FY18.

Thus, it is essential that our courts are adequately funded. **We urge you to support the Senate Budget's appropriations for Trial Court Justices (line-item 0330-0101) and Trial Court Administration (line-item 0330-0300), as well as for the Probate and Family Court (line-item 0333-0002), and House funding levels for Superior Court (line-item 0331-0100) and the Boston Municipal Court (line-item 0335-0001).**

We remain appreciative of the Legislature's support, through the FY18 Budget, for statewide expansion of the Housing Court's jurisdiction, covering the nearly one-third of residents who previously had no access to this court's expertise and efficiency, and **we respectfully request that you provide full funding for the continued successful implementation of this expansion**, including funding for five new Housing Court judges.

Committee for Public Counsel Services (CPCS)

CPCS plays a vital role in our judicial system, providing representation to indigent persons in criminal and civil cases, and administrative proceedings, in keeping with the right to counsel under our laws and the Constitutions of Massachusetts and the United States. Adequate funding helps CPCS to increase salaries of their staff attorneys, who are woefully underpaid in comparison to their colleagues in other states, and to attorneys of similar experience in the executive branch. This is not merely our conclusion but that of the Commission to Study Compensation of Assistant District Attorneys and Staff Attorneys of the Committee for Public Counsel Services. The BBA supports the Commission's recommendation that minimum salaries for these attorneys (as well as for Assistant District Attorneys) be increased, over time, to match the corresponding minimums for executive branch attorneys, and we thank the Legislature for increases in appropriations in the intervening years that have allowed us to approach that target.

We urge you to continue your support of access to justice and an efficient judiciary by **funding CPCS operations (line-item 0321-1500) at the Senate's appropriation level of \$70,047,321 and funding CPCS private counsel (line-item 0321-1510) at the House's level of \$157,985,367.**

Inclusion of the above funding in the FY20 Budget is especially critical because the state faces what the Chief Justice of the Supreme Judicial Court has called a "constitutional emergency." In cases where a child is facing removal from parental custody, the parents and children have a right to representation at a hearing within 72 hours. There are too few attorneys taking up these cases, and as a result, children and parents, especially in the western parts of the state, are being denied their constitutional right to a timely hearing.

Adequate funding, in conjunction with expanded capacity for bar advocates, or private attorneys who defend indigent clients, would assist CPCS in finding attorneys willing to take on these difficult cases and protect the constitutional rights of these parents and children. As such, **we respectfully request that the Conference Committee adopt the Senate's language in Outside Section 77**, allowing for an expansion of CPCS's emergency authority to waive statutory billable-hours limitations under certain limited circumstances.

Overall, your support of the CPCS line-item will help to ensure the agency is able to efficiently and effectively provide their necessary services.

Residential Re-Entry Programs

The BBA is very grateful for all the hard work put in by the Legislature last session to pass sweeping reforms aimed at making our criminal-justice system more fair and effective. However, we continue to trail far behind other states in funding re-entry programs that help to prevent individuals from getting trapped in cycles of recidivism. In the BBA's recent criminal justice reform report, *No Time to Wait*, we highlighted the "lack of program availability" as one of the three reasons that so many are denied access to these vital resources and urged the Commonwealth to "ensure adequate funding and accountability for anti-recidivism reforms." We ask you to **include the House figure of \$4.5 million in the FY20 Budget for continued funding of these important programs through line-item 0339-1011, with the prior appropriation continued.**

Each year, thousands of Massachusetts residents are released from county jails and state prisons, many with little or no resources to help in securing essential needs like employment and housing. Without any support, the likelihood of returning to illegal practices, and re-entering the justice system, greatly increases. Community-based residential re-entry services, like those that would be funded through this line-item, offer safe housing, workforce development, and case management, fostering connections and stability for those re-entering society. While there is of course much to celebrate in the passing of

historical criminal justice reforms in the Commonwealth, for these efforts to be successful, we must continue to invest in the necessary resources to ensure lasting recidivism reduction.

The BBA asks for your help with these priorities, which are necessary to provide equal access to the courts and justice for all residents of the Commonwealth. Thank you for your record of support for these goals, and for your careful consideration of the above items.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jon Albano". The signature is fluid and cursive, with the first name "Jon" and last name "Albano" clearly distinguishable.

Jonathan Albano
President

cc: Governor Charlie Baker
House Speaker Robert DeLeo
Senate President Karen Spilka
Chair Claire Cronin
Chair Jamie Eldridge