The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency.

PETITION OF:

NAME: | DISTRICT/ADDRESS: | DATE
---|---|---
Sal N. DiDomenico | Middlesex and Suffolk | 6/15/2020
Patricia D. Jehlen | Second Middlesex | 6/15/2020
Brendan P. Crighton | Third Essex | 6/17/2020
Denise Provost | 27th Middlesex | 6/17/2020
Maria Duaine Robinson | 6th Middlesex | 6/17/2020
Christine P. Barber | 34th Middlesex | 6/17/2020
Kevin G. Honan | 17th Suffolk | 6/17/2020
Marcos A. Devers | 16th Essex | 6/17/2020
Bud L. Williams | 11th Hampden | 6/17/2020
Mike Connolly | 26th Middlesex | 6/17/2020
Daniel J. Ryan | 2nd Suffolk | 6/17/2020
Joanne M. Comerford | Hampshire, Franklin and Worcester | 6/18/2020
James T. Welch | Hampden | 6/18/2020
Smitty Pignatelli | 4th Berkshire | 6/18/2020
Lindsay N. Sabadosa | 1st Hampshire | 6/18/2020
Joseph W. McGonagle, Jr. | 28th Middlesex | 6/18/2020
Adrian C. Madaro | 1st Suffolk | 6/18/2020
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<thead>
<tr>
<th>Name</th>
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<tr>
<td>Thomas M. Stanley</td>
<td>9th Middlesex</td>
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<td>Peter Capano</td>
<td>11th Essex</td>
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<td>Adam G. Hinds</td>
<td>Berkshire, Hampshire, Franklin and Hampden</td>
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<td>José F. Tosado</td>
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<td>Michael J. Barrett</td>
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<td>Angelo J. Puppolo, Jr.</td>
<td>12th Hampden</td>
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<td>Kay Khan</td>
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<td>Jason M. Lewis</td>
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<td>David Paul Linsky</td>
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<td>Mary S. Keefe</td>
<td>15th Worcester</td>
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<td>Liz Miranda</td>
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<td>Frank A. Moran</td>
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<td>Nika C. Elugardo</td>
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<td>Marjorie C. Decker</td>
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<td>Tami L. Gouveia</td>
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<td>Sonia Chang-Diaz</td>
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<td>Tommy Vitolo</td>
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<td>Jonathan Hecht</td>
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<td>James B. Eldridge</td>
<td>Middlesex and Worcester</td>
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<td>Ruth B. Balser</td>
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<td>RoseLee Vincent</td>
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<td>Kate Lipper-Garabedian</td>
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<td>Natalie M. Blais</td>
<td>1st Franklin</td>
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<td>Mindy Domb</td>
<td>3rd Hampshire</td>
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<td>Susannah M. Whipps</td>
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<td>Chynah Tyler</td>
<td>7th Suffolk</td>
<td>7/9/2020</td>
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<tr>
<td>Daniel R. Carey</td>
<td>2nd Hampshire</td>
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The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act promoting housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a statewide right to counsel pilot program for evictions to promote housing stability and prevent homelessness in response to the COVID-19 emergency and upon the lifting of the eviction moratorium, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 239 of the General Laws is hereby amended by adding the following 4 sections:

Section 14. For purposes of sections 15, 16, 17, and 18 the following terms shall have the following meanings:

“Advisory committee”, the committee established pursuant to section 16(a).
“Covered proceeding”, an action brought pursuant to chapter 239, chapter 139 section 19, or similar proceedings.

“Coordinator”, the coordinator of the program.

“Designated organization”, a not-for-profit organization that is designated by the coordinator to contract to provide legal assistance for eligible individuals.

"Eligible individual”, a party in a covered proceeding who is an indigent: (i) tenant or occupant of any premises rented or leased for dwelling purposes; or (ii) owner occupant of a 1-family or 2-family dwelling that is their sole dwelling and located in the Commonwealth.

“Full legal representation”, ongoing legal representation provided by legal counsel in a designated organization to an indigent eligible individual and all legal advice, advocacy, and assistance associated with representation. Full representation includes, but is not limited to, the filing of a notice of appearance on behalf of the indigent eligible individual in a covered proceeding.

“Indigent”, a person who is: (i) receiving public assistance pursuant to: (1) aid to families with dependent children pursuant to chapter 118; (2) the emergency aid program for elderly and disabled residents pursuant to section 1 of chapter 117A; (3) a veterans’ benefits program; (4) Title XVI of the federal Social Security Act; (5) supplemental nutrition assistance program, pursuant to 7 U.S.C. chapter 51; (6) refugee resettlement benefits; or (7) medicaid, pursuant to 42 U.S.C. section 1396, et seq.; or (ii) earning an income, after taxes, that is 200 per cent or less of the current poverty guidelines established annually by the United States Department of Health and Human Services; or (iii) unable to pay the fees and costs of the covered proceeding in which
the person is a party or is unable to do so without depriving said person or said person’s
dependents of the necessities of life, including food, shelter and clothing.

“Legal counsel” or “counsel”, lawyer licensed to practice law in the Commonwealth.

“Partner Attorney”, An attorney employed by or affiliated with a designated organization
who agrees to provide full legal representation pursuant to this act.

“Program”, A statewide right to counsel pilot program to provide full legal representation
to eligible individuals in covered proceedings pursuant to Section 15.

Section 15.

(a) There shall be a statewide right to counsel program to effectuate the purposes of this
act to be established and implemented within the executive office of housing and economic
development.

(b) Pursuant to this act and subject to funding from COVID relief or other funds there
shall be at least two right to counsel pilot programs in each of the six divisions of the housing
court, as defined under section 1 of chapter 185C.

(c) Pilot programs shall be established based on indicators related to the devastation that
COVID-19 has on renters and lower income homeowners including: high concentration of
renters, high concentration of poverty, high rates of COVID-19, high rates of COVID-related
unemployment, high concentrations of people of color, and other indicators.

Section 16.
(a) There shall be a program advisory committee based on recommendations by the Chairs of the General Court’s Joint Committee on Housing and Joint Committee on the Judiciary to the coordinator that includes regional legal aid organizations that represent low income tenants and legal aid organizations that represent low income homeowners, non-profit community and advocacy organizations, and state and municipal officials who seek to stabilize housing and prevent homelessness.

(b) The advisory committee shall advise the coordinator on matters and policies affecting the program, including but not limited to: (i) criteria to select designated organizations as pilots based on indicators in 15(c), (ii) an implementation schedule, (iii) community outreach to effectuate the purposes of this act, (iv) requirements for collection of eviction data among designated agencies, including but not limited to estimated number of individuals receiving assistance, demographics, and case outcomes; (v) court procedures to effectuate the purposes of this act, and (vi) evaluation of the program to measure a range of outcomes, which may include the preservation of tenancies, housing stability including the successful relocation of tenants in a manner that preserves housing stability, and terms of agreements signed by landlords and tenants.

Section 17.

(a) The coordinator shall issue a request for proposal for qualified organizations to submit proposals to become a designated organization. Organizations seeking to become designated organizations shall identify the geographic area in which they shall represent eligible individuals. A designated organization may contract with partner attorneys to provide legal assistance.
(b) The coordinator, with recommendations from the advisory committee pursuant to indicators in 15(c), shall designate organizations to provide legal assistance in accordance with this act. Designated organizations shall: (i) have substantial expertise in housing law and landlord and tenant law and substantial experience furnishing free legal assistance to eligible individuals; (ii) identify the geographic area in which they shall provide services based on indicators in 15(c); (iii) a plan to reach and provide services to persons with limited English proficiency; (iv) provide appropriate supervision and training; and (v) satisfy other criteria established by the advisory committee. Nothing herein shall interfere with any legal counsel carrying out their professional responsibilities to their clients as established in the canons of ethics and the code of professional responsibility adopted by the supreme judicial court.

(c) The coordinator shall convene statewide trainings and forums for cross training of attorneys and ongoing evaluation of the program with all designated organizations.

(d) The employees of an organization designated by the coordinator pursuant to this act shall not be considered to be or have any rights as state employees.

Section 18.

(a) A form recommended by the advisory committee and approved by the chief justice of the supreme judicial court shall be used to notify individuals of their eligibility for a right to legal counsel in covered proceedings in court and the availability of legal and housing stability assistance. The supreme judicial court shall consider adopting other forms recommended by the advisory committee as needed.

(b) Lessors must include or attach the form approved by the supreme judicial court to the summons and complaint for covered proceedings within the geographic area to be covered by the
designated organization. The housing court department shall notify lessors about the required
form and lessors’ potential eligibility for legal counsel pursuant to this act. The form must be
posted on the Trial Court’s website.

(c) If a tenant or occupant did not receive the approved form required pursuant to this
section or legal counsel does not have sufficient time to file response pleadings, there shall be a
reasonable continuation of the proceedings so that the tenant or occupant can obtain legal
assistance to prepare their case.

(d) The supreme judicial court shall approve a written waiver form for the housing court
to inform eligible individuals about the right to legal counsel in court proceedings in order for
eligible individuals to knowingly and voluntarily waive the provisions of this act

(e) The coordinator, with recommendations from the advisory committee shall adopt
other forms as needed.

SECTION 2. The provisions of this act, unless otherwise expressly provided, shall take
effect immediately upon passage.

SECTION 3. The executive office of housing and economic development shall hire the
coordinator within 25 days of passage of this act.

SECTION 4. Members of the advisory committee shall be convened by the coordinator
within 45 days of the passage of this act and for the duration of the pilot on a regular basis.

SECTION 5. The coordinator shall issue a request for proposals for the pilot within 50
days of the passage of this act and approve designated organizations as soon as is practicable.
SECTION 6. The chief justice of the supreme judicial court shall issue a form as prescribed in Section 18(a) within 60 days of the passage of this act.

SECTION 7. Within 365 days of approval of designated organizations to implement pilot programs, the coordinator, with the advisory committee, shall complete an evaluation report with recommendations which shall be delivered to the Chairs of the General Court’s Joint Committee on Housing and Joint Committee on the Judiciary and the Secretary of Housing and Economic Development.