

SENATE No. 874

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 in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/22/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>3/2/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/2/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/3/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/8/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/8/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>3/9/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/9/2021</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>3/12/2021</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/15/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/18/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/31/2021</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>3/31/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>4/7/2021</i>

SENATE No. 874

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 874) of Sal N. DiDomenico, Jack Patrick Lewis, Jason M. Lewis, Carlos González and other members of the General Court for legislation to promote housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2785 OF 2019-2020.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Second General Court
(2021-2022)**
—————

An Act promoting housing stability and homelessness prevention in Massachusetts.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a statewide right to counsel program for evictions to promote housing stability and prevent homelessness and, in response to a housing emergency that the COVID-19 pandemic has exacerbated, and whereas, evictions lead to homelessness, housing instability, overcrowding, displacement, and disruption of schooling for children, all of which are associated with negative health,, 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:

1 SECTION 1. Chapter 239 of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by adding the following sections:

3 Section 14.

4 For purposes of sections 15 and 16 the following terms shall have the following
5 meanings:

6 “Advisory committee”, the committee established pursuant to section 15(g).

7 “Covered proceeding”, an action brought pursuant to chapter 239, chapter 139 section 19,
8 or similar proceedings, including administrative proceedings to terminate a mobile or project-
9 based housing subsidy or public housing tenancy.

10 “Designated organization”, a not-for-profit organization that is designated by the
11 Massachusetts Legal Assistance Corporation to contract to provide legal assistance for eligible
12 individuals.

13 “Eligible individual”, a party in a covered proceeding who is an indigent: (i) tenant or
14 occupant of any premises rented or leased for dwelling purposes; or (ii) owner-occupant of a 1-
15 to-3-family dwelling that is their sole dwelling and located in the Commonwealth.

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

20 “Indigent”, a person who is: (i) receiving public assistance pursuant to: (1) aid to families
21 with dependent children pursuant to chapter 118; (2) the emergency aid program for elderly and
22 disabled residents pursuant to section 1 of chapter 117A; (3) a veterans’ benefits program; (4)
23 Title XVI of the federal Social Security Act; (5) the Supplemental Nutrition Assistance Program,
24 pursuant to 7 U.S.C. chapter 51; (6) refugee resettlement benefits; or (7) Medicaid, pursuant to

25 42 U.S.C. section 1396, et seq.; or (ii) earning an income, after taxes, that is 80 per cent or less of
26 the current area median income established annually by the United States Department of
27 Housing and Urban Development; or (iii) unable to pay the fees and costs of the covered
28 proceeding in which the person is a party or is unable to do so without depriving said person or
29 said person's dependents of the necessities of life, including food, shelter and clothing.

30 "Legal counsel" or "counsel", lawyer licensed to practice law in the Commonwealth.

31 "Partner attorney", an attorney employed by or affiliated with a designated organization
32 who agrees to provide full legal representation pursuant to this act.

33 "Right to Counsel Program", a statewide right to counsel program to provide full legal
34 representation to eligible individuals in covered proceedings to be funded by a specifically
35 dedicated general court appropriation.

36 Section 15.

37 (a) There shall be a statewide Right to Counsel Program in eviction cases to effectuate
38 the purposes of this act to be specifically funded by the general court and administered by the
39 Massachusetts Legal Assistance Corporation.

40 (b) With specifically designated state funding, the Massachusetts Legal Assistance
41 Corporation shall establish a Right to Counsel Program to provide free legal assistance and full
42 representation to eligible individuals in covered proceedings.

43 (c) The Massachusetts Legal Assistance Corporation shall issue a request for proposal
44 through a public notice for qualified organizations to submit proposals to become designated
45 organizations. The notice must delineate an open and transparent process for approving requests

46 with input from the advisory committee. All organizations seeking to become designated
47 organizations shall have the right to apply for funding and must identify the geographic area in
48 which they shall represent eligible individuals. A designated organization may contract with
49 partner attorneys to provide legal assistance.

50 (d) Designated organizations shall: (i) have substantial expertise in housing law and
51 landlord and tenant law and substantial experience furnishing free legal assistance to eligible
52 individuals; (ii) have a demonstrated track record of serving the low-income community, (ii)
53 identify the geographic area in which they shall provide legal representation; (iii) have a plan to
54 reach and provide legal representation to income eligible persons with limited English
55 proficiency; (iv) provide appropriate supervision and training; (v) incorporate paralegals, legal
56 interns or law students, where possible, to be supervised by legal counsel and (vi) satisfy other
57 criteria established the Massachusetts Legal Assistance Corporation with input from the advisory
58 committee. Nothing herein shall interfere with any legal counsel carrying out their professional
59 responsibilities to their clients as established in the canons of ethics and the code of professional
60 responsibility adopted by the supreme judicial court.

61 (e) The Massachusetts Legal Assistance Corporation shall issue a request for proposal for
62 a qualified legal aid organization to coordinate representation of eligible tenants statewide and a
63 request for proposal for a qualified legal aid organization to coordinate representation of eligible
64 owner-occupants. Such organizations shall provide programmatic support and programmatic
65 advocacy in addition to convening statewide trainings and forums for cross-training of attorneys
66 in order to effectuate the purpose of this act.

67 (f) The Massachusetts Legal Assistance Corporation shall be responsible for
68 exercising oversight, implementing fiscal controls, and for all data collection, deliverables, and
69 ongoing programmatic evaluation.

70 (g) The Massachusetts Legal Assistance Corporation shall appoint an advisory
71 committee with fifteen members from diverse regions of the Commonwealth that includes, but is
72 not limited to, low-income tenants, low-income owner-occupants, non-profit community-based
73 organizations, statewide advocacy organizations, and municipal officials. Each member shall
74 have a demonstrated commitment to homelessness prevention and housing stability. The
75 advisory committee shall advise on matters and policies affecting the Right to Counsel Program
76 and shall be convened by the Massachusetts Legal Assistance Corporation on a regular basis, but
77 no less than twice a year.

78 Section 16.

79 (a) The Massachusetts Legal Assistance Corporation shall submit, with input from the
80 advisory committee, a form to be approved by the Chief Justice of the Supreme Judicial Court
81 shall be used to notify individuals of their potential eligibility for a right to legal counsel in
82 covered proceedings. The supreme judicial court shall consider adopting other forms
83 recommended by the Massachusetts Legal Assistance Corporation, with input from the advisory
84 committee, as needed.

85 (b) Lessors must include or attach the form approved by the supreme judicial court to the
86 notice to quit and summons and complaint for covered proceedings. The trial court shall notify
87 lessors about the required form and lessors' potential eligibility for legal counsel pursuant to this
88 act. The form must be posted on the trial court's website.

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

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

96 SECTION 2. The general court shall appropriate funding for a Right to Counsel Program
97 in the Judiciary budget through a specifically dedicated line-item to effectuate the purposes of
98 this act.

99 SECTION 3. The provisions of this act, unless otherwise expressly provided, shall take
100 effect immediately upon passage.