

SENATE . . . . . No. 864

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 access to counsel and housing stability in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Sal N. DiDomenico	Middlesex and Suffolk	
Angelo J. Puppolo, Jr.	12th Hampden	1/30/2023
Jack Patrick Lewis	7th Middlesex	1/31/2023
Brian M. Ashe	2nd Hampden	2/1/2023
Jacob R. Oliveira	Hampden, Hampshire and Worcester	2/2/2023
Lydia Edwards	Third Suffolk	2/6/2023
Vanna Howard	17th Middlesex	2/9/2023
Joanne M. Comerford	Hampshire, Franklin and Worcester	2/10/2023
James B. Eldridge	Middlesex and Worcester	2/14/2023
Mike Connolly	26th Middlesex	2/17/2023
John F. Keenan	Norfolk and Plymouth	2/23/2023
Julian Cyr	Cape and Islands	2/23/2023
Adam Gomez	Hampden	2/23/2023
Liz Miranda	Second Suffolk	2/28/2023
Thomas M. Stanley	9th Middlesex	3/21/2023
Patricia D. Jehlen	Second Middlesex	3/21/2023
John C. Velis	Hampden and Hampshire	3/21/2023
Patrick M. O'Connor	First Plymouth and Norfolk	3/22/2023

<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>5/10/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>7/12/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/12/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>12/5/2023</i>

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By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 864) of Sal N. DiDomenico, Angelo J. Puppolo, Jr., Jack Patrick Lewis, Brian M. Ashe 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.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 874 OF 2021-2022.]

**The Commonwealth of Massachusetts**

—————  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
—————

An Act promoting access to counsel and housing stability in Massachusetts.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a statewide access to counsel program for evictions to promote housing stability and prevent homelessness and, to respond to a housing emergency that the COVID-19 pandemic has exacerbated, and whereas, evictions lead to homelessness, housing instability, overcrowding, displacement, diminished economic opportunity, 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 2020 Official Edition,  
2 is hereby amended by adding the following sections:

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

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

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

9 “Designated organization”, a not-for-profit organization that is designated by the  
10 Massachusetts Legal Assistance Corporation to contract to provide civil legal assistance and to  
11 conduct tenant outreach, engagement and education for eligible individuals.

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

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

19 “Indigent”, a person who is: (i) receiving public assistance pursuant to: (1) aid to families  
20 with dependent children pursuant to chapter 118; (2) the emergency aid program for elderly and  
21 disabled residents pursuant to section 1 of chapter 117A; (3) a veterans’ benefits program; (4)  
22 Title XVI of the federal Social Security Act; (5) the Supplemental Nutrition Assistance Program,  
23 pursuant to 7 U.S.C. chapter 51; (6) refugee resettlement benefits; or (7) Medicaid, pursuant to  
24 42 U.S.C. section 1396, et seq.; or (ii) earning an income, after taxes, that is 80 per cent or less of  
25 the current area median income established annually by the United States Department of  
26 Housing and Urban Development; or (iii) unable to pay the fees and costs of the covered

27 proceeding in which the person is a party or is unable to do so without depriving said person or  
28 said person's dependents of the necessities of life, including food, shelter and clothing.

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

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

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

35 Section 15.

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

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

42 (c) The Massachusetts Legal Assistance Corporation shall issue a request for proposal  
43 through a public notice for organizations to submit proposals to become designated  
44 organizations. The notice must delineate an open and transparent process for approving requests  
45 with input from the advisory committee. All organizations seeking to become designated  
46 organizations shall have the right to apply for funding and must identify the geographic area in  
47 which they shall represent eligible individuals. A designated organization may contract with

48 partner attorneys to provide legal assistance and with community organizations to educate and  
49 inform tenants about their rights. Such information shall be available in multiple languages to  
50 ensure equitable access for linguistic minorities.

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

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

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

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

79 (h) The Massachusetts Legal Assistance Corporation, in consultation with the advisory  
80 committee and designated organizations, shall determine how to phase in the access to counsel  
81 program over a period of 5 years.

82 Section 16.

83 (a) The Massachusetts Legal Assistance Corporation shall submit, with input from the  
84 advisory committee, a form to be approved by the Chief Justice of the Supreme Judicial Court  
85 that shall be used to notify individuals of their potential eligibility for access to legal counsel in  
86 covered proceedings and to the availability of housing stability resources and rental assistance  
87 programs. The supreme judicial court shall consider adopting other forms recommended by the  
88 Massachusetts Legal Assistance Corporation, with input from the advisory committee, as needed.

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

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

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

100 SECTION 2. The general court shall, subject to appropriation, fund an Access to Counsel  
101 Program in the Judiciary section of the budget through a specifically dedicated line-item to be  
102 administered by the Massachusetts Legal Assistance Corporation to effectuate the purposes of  
103 this act.

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