

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

<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>

SENATE No. 864

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.

[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.