

HOUSE No. 1731

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers and Michael S. Day

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: | DATE ADDED: |
|------------------------------------|------------------------------|------------------|
| <i>David M. Rogers</i> | <i>24th Middlesex</i> | <i>1/20/2023</i> |
| <i>Michael S. Day</i> | <i>31st Middlesex</i> | <i>1/20/2023</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>1/20/2023</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>1/25/2023</i> |
| <i>Mindy Domb</i> | <i>3rd Hampshire</i> | <i>1/25/2023</i> |
| <i>Steven Owens</i> | <i>29th Middlesex</i> | <i>1/25/2023</i> |
| <i>Patricia A. Duffy</i> | <i>5th Hampden</i> | <i>1/25/2023</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> | <i>1/25/2023</i> |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>1/25/2023</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>1/25/2023</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> | <i>1/27/2023</i> |
| <i>Angelo J. Puppolo, Jr.</i> | <i>12th Hampden</i> | <i>1/27/2023</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>1/27/2023</i> |
| <i>Peter Capano</i> | <i>11th Essex</i> | <i>1/30/2023</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>1/31/2023</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>1/31/2023</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> | <i>1/31/2023</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>2/1/2023</i> |

| | | |
|-------------------------------------|--|------------------|
| <i>Jacob R. Oliveira</i> | <i>Hampden, Hampshire and Worcester</i> | <i>2/2/2023</i> |
| <i>Joan Meschino</i> | <i>3rd Plymouth</i> | <i>2/2/2023</i> |
| <i>Adrian C. Madaro</i> | <i>1st Suffolk</i> | <i>2/3/2023</i> |
| <i>Samantha Montaña</i> | <i>15th Suffolk</i> | <i>2/8/2023</i> |
| <i>James C. Arena-DeRosa</i> | <i>8th Middlesex</i> | <i>2/8/2023</i> |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>2/9/2023</i> |
| <i>Tricia Farley-Bouvier</i> | <i>2nd Berkshire</i> | <i>2/9/2023</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>2/10/2023</i> |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> | <i>2/13/2023</i> |
| <i>Christopher Hendricks</i> | <i>11th Bristol</i> | <i>2/16/2023</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>2/16/2023</i> |
| <i>Natalie M. Blais</i> | <i>1st Franklin</i> | <i>2/20/2023</i> |
| <i>Erika Uyterhoeven</i> | <i>27th Middlesex</i> | <i>2/22/2023</i> |
| <i>Kate Lipper-Garabedian</i> | <i>32nd Middlesex</i> | <i>2/22/2023</i> |
| <i>Christopher Richard Flanagan</i> | <i>1st Barnstable</i> | <i>2/23/2023</i> |
| <i>Ruth B. Balsler</i> | <i>12th Middlesex</i> | <i>2/23/2023</i> |
| <i>Rob Consalvo</i> | <i>14th Suffolk</i> | <i>2/23/2023</i> |
| <i>Christine P. Barber</i> | <i>34th Middlesex</i> | <i>2/24/2023</i> |
| <i>Dylan A. Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> | <i>2/24/2023</i> |
| <i>Daniel R. Carey</i> | <i>2nd Hampshire</i> | <i>2/27/2023</i> |
| <i>Chynah Tyler</i> | <i>7th Suffolk</i> | <i>2/28/2023</i> |
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i> | <i>3/1/2023</i> |
| <i>Carlos González</i> | <i>10th Hampden</i> | <i>3/1/2023</i> |
| <i>Kevin G. Honan</i> | <i>17th Suffolk</i> | <i>3/2/2023</i> |
| <i>Judith A. Garcia</i> | <i>11th Suffolk</i> | <i>3/10/2023</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> | <i>3/14/2023</i> |

HOUSE No. 1731

By Representatives Rogers of Cambridge and Day of Stoneham, a petition (accompanied by bill, House, No. 1731) of David M. Rogers, Michael S. Day and others relative to promoting access to counsel and housing stability. The Judiciary.

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.

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 15.

4 For purposes of sections 16 and 17 the following terms shall have the following
5 meanings:

6 “Advisory committee”, the committee established pursuant to section 16(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 civil legal assistance and to
12 conduct tenant outreach, engagement and education for eligible 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 “Access to Counsel Program”, a statewide access 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 16.

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

40 (b) With specifically designated funding, the Massachusetts Legal Assistance
41 Corporation shall establish an Access to Counsel Program to provide free legal assistance and
42 full 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 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 and with community organizations to educate and
50 inform tenants about their rights. Such information shall be available in multiple languages to
51 ensure equitable access for linguistic minorities.

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

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

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

72 (g) The Massachusetts Legal Assistance Corporation shall appoint an advisory committee
73 with fifteen members from diverse regions of the Commonwealth that includes, but is not limited

74 to, low-income tenants, low-income owner-occupants, non-profit community-based
75 organizations, statewide advocacy organizations, and municipal officials. Each member shall
76 have a

77 demonstrated commitment to homelessness prevention and housing stability. The
78 advisory committee shall advise on matters and policies affecting the Access to Counsel Program
79 and shall be convened by the Massachusetts Legal Assistance Corporation on a regular basis, but
80 no less than twice a year.

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

84 Section 17.

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

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

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

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

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

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