

HOUSE No. 1911

The Commonwealth of Massachusetts

PRESENTED BY:

Erika Uytterhoeven

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 enacting the universal right to counsel in eviction cases.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/19/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>4/2/2021</i>

HOUSE No. 1911

By Ms. Uytterhoeven of Somerville, a petition (accompanied by bill, House, No. 1911) of Erika Uytterhoeven and Elizabeth A. Malia relative to legal services for eviction cases. The Judiciary.

The Commonwealth of Massachusetts

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

An Act enacting the universal right to counsel in eviction cases.

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 is hereby amended by adding the
2 following 3 sections:-

3 Section 15. For purposes of sections 16 and 17 the following terms shall, unless the
4 context clearly requires otherwise, have the following meanings:-

5 “Committee”, the civil justice committee established pursuant to section 16.

6 “Covered proceeding”, a proceeding resulting from: (i) an action brought pursuant to
7 section 1A or (ii) an action brought pursuant to this chapter by a person to recover land or
8 tenements based on the following: (a) the lessee of land or tenements or a person holding under
9 him holds possession without right after the determination of a lease by its own limitation or by
10 notice to quit or otherwise; (b) a mortgage of land has been foreclosed by a sale under a power
11 therein contained or otherwise; or (c) a tax title has been foreclosed by decree of the land court.

12 “Designated organization”, an organization that provides legal counsel and is identified
13 and designated by the civil justice committee pursuant to section 16.

14 “Eligible individual”, a party in a covered proceeding: (i) tenant or occupant of a rental
15 dwelling or dwelling unit, the owner and occupant of a dwelling unit owned as a condominium,
16 or the owner and occupant of a 1-family or 2-family dwelling where such dwelling unit or
17 dwelling is located in the commonwealth; or (ii) owner or lessor of a rental dwelling or dwelling
18 unit where such dwelling unit or dwelling is located in the commonwealth.

19 “Legal counsel” or “counsel”, means a lawyer licensed to practice law in the
20 commonwealth.

21 Section 16. (a) There shall be established within the executive office of housing and
22 economic development, but not under its control, a state agency known as the civil justice
23 committee. The committee shall consist of 7 members appointed by the governor, 2 of whom
24 shall be

25 representatives from the Massachusetts Access to Justice Commission, 3 of whom shall
26 be representatives from the Massachusetts Legal Assistance Corporation and 2 of whom shall be
27 representatives from the committee for public counsel services. The committee shall be
28 responsible for establishing and implementing a program for the provision of legal services to
29 eligible individuals with respect to covered proceedings.

30 The committee or its designee shall identify and designate organizations eligible to
31 provide legal counsel in accordance with this section and section 17; provided, however the
32 committee shall only designate organizations that:

33 (i) operate pursuant to the standards contained in section 4, Standards for Relations with
34 Clients, and section 6, Standards for Quality Assurance, of the Standards for Providers of Civil
35 Legal Aid established by the American Bar Association;

36 (ii) maintain its principal purpose as furnishing free or low-cost legal services to persons
37 who are unable to afford private legal counsel;

38 (iii) has substantial expertise in housing law and landlord and tenant law and relevant
39 experience in representing low-income tenants in the civil courts of the commonwealth; or

40 (iv) satisfy other criteria established by the civil justice committee.

41 (b) The committee shall establish procedures for the monitoring of the services provided
42 pursuant to this section and section 17 to ensure that designated organizations are providing
43 competent legal services and shall annually review the performance of designated organizations;
44 provided, however, that the committee may decline to renew the designation of any such
45 organization.

46 (c) The committee shall require each designated organization to identify the geographic
47 areas from which the organization shall represent eligible individuals, and for each geographic
48 area, shall maintain a list of such organizations that shall represent such individual.

49 (d) An organization designated by the civil justice committee pursuant to this section
50 shall not be considered to be or have any rights as a state employee.

51 (e) The committee may promulgate any rules or regulations necessary to implement this
52 section or section 17.

53 Section 17. (a) The civil justice committee shall immediately assign a designated
54 organization to represent an eligible individual upon receipt of a request for such services from:

55 (i) the eligible individual;

56 (ii) a judge to whom a covered proceeding has been assigned; or

57 (iii) such designated organization.

58 (b) The designated organization shall assign specific legal counsel to provide legal
59 services to the eligible individual for the covered proceeding.

60 (c) The committee shall cause legal counsel to be paid \$50 per hour for representation of
61 an eligible individual pursuant to this section. The civil justice committee shall review the rate of
62 compensation periodically.

63 (d) The committee shall set an annual cap on billable hours not in excess of 1,650 hours.
64 Counsel appointed or assigned to represent an eligible individual shall not be paid for any time
65 billed in excess of the annual limit of billable hours. It shall be the responsibility of the counsel
66 appointed or assigned to represent an eligible individual to manage their billable hours. Any
67 counsel who is appointed or assigned to represent an eligible individual shall be prohibited from
68 accepting any new appointment or assignment to represent indigents after that counsel has billed
69 1,350 billable hours during any fiscal year.

70 SECTION 2. The members of the civil justice committee established in section 16 of
71 chapter 239 of the General Laws shall be appointed within 90 days of the effective date of this
72 act.

73 SECTION 3. Section 17 of chapter 239 of General Laws shall take effect 180 days after
74 the effective date of this act.