



Boston Bar ASSOCIATION

**Testimony of the Boston Bar Association
to the Joint Committee on Ways & Means
In Support of H. 4360 and S. 864: An Act promoting access to counsel and housing
stability in Massachusetts**

March 27, 2024

The Boston Bar Association (BBA), an organization with more than 14,000 members, is proud to be part of the broad-based Massachusetts Access to Counsel Coalition, in support of their efforts to establish a program to provide counsel for low-income tenants and landlords in eviction cases. Indeed, this is an issue that has been a long-standing priority of the BBA.

In 2006, the American Bar Association passed a resolution supporting access to counsel in civil adversarial proceedings where basic human needs are at stake. The BBA adopted that resolution and also created a task force composed of stakeholders from across the state with deep knowledge and experience concerning issues of access to justice for low-income people. In 2008, that task force recommended implementation of access to counsel in cases involving basic human needs, like housing. And in 2010, we began two pilot projects—one in Quincy District Court and one in Northeast Housing Court—that showed it could work, successfully reaching agreements and keeping two-thirds of people with full representation in their homes.

As part of the projects, we engaged in a cost-savings analysis which later was used in connection with legislation in NYC providing for access to counsel in eviction cases. The Massachusetts Attorney General was impressed with the work and agreed to fund an additional two pilots in Worcester and Framingham for certain eviction cases.

In 2014, the BBA released another [task-force report](#) that showed:

- how legal-services providers in Massachusetts were forced to turn away nearly two-thirds of qualified applicants because of a lack of resources,
- how the numbers of self-represented litigants threaten the delivery of justice throughout the court system,

- and, most importantly for purposes of this legislation, how providing an attorney for people in housing cases actually saves the state money.

That finding was confirmed in June 2020, when a [follow-up study](#) by the prestigious Analysis Group demonstrated that, at an estimated annual cost of \$26 million, full legal representation would allow an estimated 16,000 Massachusetts residents to stay in their homes, and result in a minimum annual saving of \$63 million in costs. In other words, **the state stands to save at least \$2.40 for every \$1 invested in providing counsel in eviction cases.** This is because **every person who can stay in their home is one less person in shelter, on the streets, or in the emergency room.** Every child who can stay with a parent is one less child in foster care or who will suffer trauma or other adverse effects from homelessness.

A growing body of research has found that evictions are associated with negative outcomes for tenants leading to homelessness, poor mental and physical health, unemployment, and family instability. And these negative outcomes disproportionately impact children, women, and people of color, further exacerbating long-standing inequities that have been exposed by the COVID-19 pandemic.

It is important to emphasize that **the Access to Counsel Coalition proposal that we support includes not only qualified tenants but also owner-occupant landlords.** That was a recommendation of the BBA's 2008 task force, and we are pleased to see it included here. The BBA's Lawyer for the Day program at Housing Court similarly offers assistance to both tenants and landlords. And under the emergency COVID Eviction Legal Help Project funded by the state, the Volunteer Lawyers Project provided free representation to owner-occupant landlords, demonstrating that such assistance can have a significant impact.

As lawyers, we know how intimidating the courts can be for unrepresented litigants, how tilted the playing field is when only one side has counsel, and how justice is best served when both sides have legal assistance. The SJC's [Adjarthey ruling](#), in which the late Chief Justice Ralph D. Gants, writing for a unanimous court, spelled out the complexity of a summary process eviction case designed to unfold in a short period of time. As Chief Gants understood, this creates a tremendous set of hurdles for parties without a lawyer to overcome. That case is Exhibit A as to why we need an access-to-counsel program for landlords and tenants. Otherwise, we cannot be certain that justice will be achieved, given all the intricacies of the system.

Additionally, the timing is right: With renewed public attention on the high cost of housing in Massachusetts—and on housing instability and its negative effects for the state's workforce and economy, and for entire communities—**H. 4360 and S. 864 will increase the number of sustainable and fair settlements, keep people in their homes, and strengthen municipalities.**

Finally, **this effort makes sense only if it is built on new investment, rather than reallocating existing legal-aid and housing-stabilization resources.** Fortunately, as the

BBA has demonstrated—and as other organizations have corroborated—the Commonwealth will see a positive return on that investment.

To sum up, **access to counsel in eviction proceedings will prevent the trauma of eviction for thousands of people every year (including children), assist the courts, and promote justice.** As we have now shown, it will also save the state at least \$2.40 for every \$1 spent on full representation.

In addition to requesting that the House Committee on Ways & Means report H. 4360 to the floor for a vote, as your work on next year's budget continues, **we respectfully urge both committees to include in their FY25 budget proposals \$3.5 million** (line-item 0321-1800) to fund an Access to Counsel program, alongside the full Access to Counsel bill language contained in H. 4360 and/or S. 864, which provides the framework for a statewide program.

We thank Sen. DiDomenico, Rep. Rogers, and Rep. Day for filing legislation designed to ensure access to counsel in eviction cases and for focusing on this critical issue, as well as the Judiciary Committee for favorably reporting H. 4360. The BBA stands ready to work with the Ways & Means Committees on legislation and/or budget language toward the goal of building housing stability statewide.