

# Access to Counsel Program Briefing Booklet



*Norieliz DeJesus, with La Colaborativa in Chelsea, stands in front of a growing mountain of boxes, toys, and personal belongings from evicted tenants that La Colaborativa is storing.*

# Access to Counsel Coalition

## Briefing Booklet

### Table of Contents

#### 1. Bills

- a. S.864
- b. H.1731
- c. Fact Sheet
- d. Section-By-Section

#### 2. Access to Counsel 2023-2024 Bill Sponsors

#### 3. 240 Organizations Supporting Access to Counsel

#### 4. Full List of Testimony to Judiciary and Housing Committees

#### 5. Bill Testimony

- a. Massachusetts Attorney General Andrea Campbell
- b. Mass Bar Association
- c. Boston Bar Associationm
- d. Women's Bar Association
- e. Renee Spencer
- f. WinnCompanies
- g. Boston Office of Housing Stability
- h. Salem Office of Neighborhood Stability
- i. AARP Massachusetts
- j. Jane Doe, Inc,
- k. League of Women Voters of Massachusetts
- l. Mass Catholic Conference
- m. Jewish Alliance for Law and Social Action
- n. Mass Law Reform Institute
- o. Mass Association for Mental Health
- p. MetroWest Legal Services
- q. Georgetown Law, Nicole Summers

#### 6. Budget Request

- a. Access to Counsel Coalition Budget Request to Governor Healey
- b. Joint Property Owner Letter to Governor Healey

#### 7. Articles

- a. Bills Aim to Ensure Access to Lawyers in Evictions, De-Leaded Homes for Renters, Banker & Tradesman
- b. The Americans Most Threatened by Eviction: Young Children, New York Times (10/2/2023)

#### 8. Report

- a. Boston Bar Association Report, *Investing in Fairness, Justice and Housing Stability* (6/2020)

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>

**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.

**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 Montañó</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>
<i>Meghan Kilcoyne</i>	<i>12th Worcester</i>	<i>3/15/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/15/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>3/15/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/15/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/16/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>3/21/2023</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>4/12/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>4/17/2023</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>5/2/2023</i>
<i>Shirley B. Arriaga</i>	<i>8th Hampden</i>	<i>5/9/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>5/17/2023</i>
<i>Dawne Shand</i>	<i>1st Essex</i>	<i>6/22/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/10/2023</i>

*Jennifer Balinsky Armini*

*8th Essex*

*7/11/2023*

*Danillo A. Sena*

*37th Middlesex*

*8/24/2023*

**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.

# Enact S.864 and H.1731: An Act promoting access to counsel and housing stability in Massachusetts

---

In recognition of a housing crisis that has been made worse by COVID-19 and the need to keep people stably housed, Senator Sal DiDomenico, Representative Dave Rogers, and Representative Michael Day have filed a bill *Promoting Access to Counsel and Housing Stability in Massachusetts (S.864 and H.1731)*.

## Providing legal representation keeps people housed

---

S.864 and H. 1731 provide legal representation for low-income tenants **and** low-income owner-occupants in eviction proceedings. The bills are supported by a broad coalition of 240 organizations which includes the legal community, health care providers, large property owners, municipal officials, and the faith-based community.

## The inequity of legal representation in evictions in Massachusetts is stark

---

In September 2023, the Mass. Trial Court reported that in non-payment cases in Housing Court, while 90% of landlords were represented, **only 2.5% of tenants were represented**. This imbalance has persisted for years, resulting in an imbalance of power where landlords have attorneys who can navigate a complicated process and tenants do not.

## Tenants facing eviction are overwhelmingly poor, women, people of color, & children

---

New data shows that 11% percent of all children under the age of 5 face eviction every year. That rate almost triples for Black children, where **27% of Black children under the age of 5 face eviction every year**. Evictions lead to decreased engagement in school and increased dropout rates. Evictions negatively affect people's physical and mental health.

## Eviction filings in Massachusetts are going up

---

Trial court data shows that eviction filings in Massachusetts are going up and surpassing pre-COVID eviction filings. In places with access to counsel programs have been established, eviction filings go down and people's housing is stabilized.

## Evictions are forcing families into shelters and unsafe housing conditions

---

In Massachusetts, under the COVID Eviction Legal Help Project, a temporary program quickly scaled up in response to COVID, seven legal services providers handled 4,698 eviction cases over a 14 month period. **Positive outcomes were obtained in 87% of cases receiving extended services**: in 61% of cases the tenancy was preserved and in 26% of cases additional time was received.

---

S.864 and H.1731 provide:

- 1. Who is eligible for legal representation?** Low-income tenants facing eviction and low-income owner-occupants of 1 to 3-family homes seeking possession of a unit in their only home, who receive public benefits or are at or below 80% of the [Area Median Income](#), which varies by region.
- 2. What kinds of proceedings are covered?** Evictions, similar court proceedings, and administrative proceedings to terminate a mobile or project-based housing subsidy or public housing tenancy. In addition, low-income owner-occupants of 1 to 3-family homes seeking possession of a unit in their only home.
- 3. What is provided?** Full legal representation for eligible individuals facing eviction in court or through administrative proceedings.
- 4. Who implements the program?** The Access to Counsel Program would be administered by the Massachusetts Legal Assistance Corporation (MLAC). MLAC will designate non-profit organizations to provide full legal representation through a request for proposal process. Organizations must have substantial expertise in housing law.
- 5. Is there an Advisory Committee?**  
A 15-member Advisory Committee will advise on matters and policies affecting the Access to Counsel Program. The advisory committee must include low-income tenants and owner-occupants, community-based organizations, statewide advocacy organizations, and municipal officials from diverse regions of the state.
- 6. How do people find out about the Access to Counsel program?**  
A form approved by the Supreme Judicial Court would inform individuals about the Access to Counsel program. It must be attached to a notice to quit and an eviction court complaint. The trial court would notify landlords about the required form and of their potential eligibility for legal counsel.
- 7. Funding**  
A statewide Access to Counsel program would be funded by the general court through a specifically designated line item in the Judiciary budget. Funding for an Access to Counsel program must not impact state funding for MLAC's line item for essential frontline civil legal aid and housing stabilization programs.

**It is urgent to reduce the trauma caused by evictions for tenants and small landlords**

**For more information contact:** [Access to Counsel Coalition](#): Annette Duke at Massachusetts Law Reform Institute at [Aduke@MLRI.org](mailto:Aduke@MLRI.org)

## ***Section-by-Section***

### **An Act promoting access to counsel and housing stability in Massachusetts**

**TITLE:** An Act promoting access to counsel and housing stability in Massachusetts

**SECTION 1:** This bill amends and adds to Chapter 239 of the General Laws.

#### **SECTION 15: *Key Definitions***

“Covered proceeding” is an eviction action brought under Chapter 239 or 139 or similar proceedings, including administrative proceedings to terminate a mobile or project-based housing subsidy or public housing tenancy.

“Designated organization” is a not-for-profit organization designated by the Massachusetts Legal Assistance Corporation (MLAC) to contract to provide legal assistance for eligible individuals and conduct tenant outreach and education for eligible individuals.

“Eligible individual” is a party in a covered proceeding who is a indigent and is either a tenant or occupant of rented or leased housing or an owner-occupant of a 1 to 3-family dwelling in Massachusetts that is their sole dwelling.

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

“Indigent” describes a person who receives certain public assistance benefits or whose after-tax income is 80 percent or less of area median income, or who is unable to pay the fees and costs of covered proceedings without depriving themselves or their dependents of life necessities, including food, shelter and clothing.

“Access to Counsel Program” is a statewide program to provide full legal representation to eligible individuals in covered cases to be funded by a specifically dedicated general court appropriation.

#### **SECTION 16: *Establishing an Access to Counsel Program***

- a. There shall be a statewide Access to Counsel Program in eviction cases, subject to appropriation, to be specifically funded by the general court and administered by MLAC.
- b. With specifically designated funding, MLAC shall establish a program to provide free legal assistance and full representation to eligible individuals in covered proceedings.
- c. MLAC shall publicly issue a request for proposals for qualified organizations to apply to become designated organizations. All organizations seeking to become designated organizations will have the right to apply for funding.

- d. Designated organizations shall have substantial expertise in housing law and in furnishing free legal assistance to the low-income community. Designated organizations shall identify the geographic area in which they will provide representation, identify plans to reach and represent people with limited English proficiency, and provide supervision and training, incorporating paralegals, legal interns or law students, where possible, and satisfy other criteria established by MLAC with input from an advisory committee.
- e. MLAC shall issue a request for proposals for a qualified legal aid organization to coordinate statewide representation of eligible tenants and a qualified legal aid organization to coordinate statewide representation of eligible owner-occupants. Such organizations shall provide programmatic support in addition to convening statewide trainings and forums.
- f. MLAC shall be responsible for exercising oversight, implementing fiscal controls, and all data collection, deliverables, and program evaluation.
- g. MLAC shall appoint a 15-member advisory committee that includes low-income tenants, low-income owner-occupants, non-profit community-based organizations, statewide advocacy organizations, and municipal officials. Member shall have a demonstrated commitment to homelessness prevention and housing stability. The advisory committee shall be convened by MLAC regularly, no less than twice a year.
- h. MLAC, in consultation with the advisory committee and designated organizations, shall determine how to phase in an access to counsel program over 5 years.

**SECTION 17. *Notification of Access to Counsel***

- a. The Supreme Judicial Court (SJC) shall approve a form submitted by MLAC, with input from the advisory committee, to notify individuals about their eligibility for access to counsel and to the availability of housing stability resources and rental assistance. The SJC shall consider other forms recommended by MLAC, with input from the advisory committee, as needed.
- b. Landlords/lessors must include the form with notices to quit and summons and complaints in covered proceedings. The trial court shall notify landlords/lessors about the required form and the landlords'/lessors' potential eligibility for legal counsel. The form must be posted on the trial court's website.
- c. If an eligible tenant, occupant or owner-occupant does not receive these forms or if legal counsel does not have time to file responsive pleadings, there shall be a reasonable continuation of the proceedings so that the tenant, occupant or owner-occupant can obtain legal counsel to prepare their case.
- d. The Supreme Judicial Court shall approve a written form so eligible individuals can voluntarily waive their rights under this act.

**SECTION 2:** The general court shall, subject to appropriation, fund an Access to Counsel Program through a specifically designated line-item in the Judiciary budget to be administered by MLAC.

**SECTION 3:** This act is immediately effective upon passage.

# Access to Counsel 2023-24 Bill Sponsors

An Act promoting access to counsel and housing stability in  
Massachusetts

S.864 and H.1731

## Lead Sponsors

Sen. Sal DiDomenico

Rep. Dave Rogers & Rep.

Mike Day

## Senators

Sal DiDomenico (lead sponsor)

Jo Comerford

Julian Cyr

Lydia Edwards

James Eldridge

Adam Gomez

Patrica Jehlen

John Keenan

Joan Lovely

Liz Miranda

Patrick M. O'Connor

Jacob Oliveira

Rebecca Rausch

John C. Velis

David Rogers (lead sponsor)

Michael Day (lead sponsor)

James Arena-DeRosa

Jennifer Armini

Shirley Arriaga

Brian Michael Ashe

Ruth Balsler

Christine Barber

Natalie Blais

Peter Capano

Dan Carey

Simon Cataldo

Michelle Ciccolo

Mike Connolly

Rob Consalvo

Manny Cruz

Marjorie Decker

Mindy Domb

Patricia Duffy

## Representatives

Tricia Farley-Bouvier

Dylan Fernandes

Christopher Flanagan

Brandy Fluker Oakley

Sean Garballey

Judith A. Garcia

Carmine Gentile

Carlos Gonzalez

Jim Hawkins

Chris Hendricks

Natalie Higgins

Russell E. Holmes

Kevin G. Honan

Vanna Howard

Kay Khan

Meghan Kilcoyne

David LeBoeuf

Jack Lewis

David Linsky

Kate Lipper-Garabedian

Adrian Madaro

Joan Meschino

Sam Montaño

Tram Nguyen

Steven Owens

Angelo Puppolo, Jr.

Lindsay Sabadosa

Dawne Shand

Thomas M. Stanley

Chynah Tyler

Erika Uyterhoeven

Tommy Vitolo



# 240 Organizations Supporting Access to Counsel

- Abundant Housing MA
- Action for Boston Community Development
- Action, Inc.
- Advocacy Network to End Family Homelessness
- AIDS Action/Fenway Health
- Alliance of Cambridge Tenants
- Allston/Brighton Community Development Corporation
- Allston Brighton Health Collaborative
- American Civil Liberties Union of Massachusetts
- Amherst Family Health Center
- Amherst Municipal Affordable Housing Trust
- Amherst Town Council (Resolution)
- Arise for Social Justice
- Asian Task Force Against Domestic Violence
- Bassuk Center
- Beacon Communities
- Beacon Residential Management
- Berkshire County Regional Housing Authority
- BEST Hospitality Training
- Beth Israel Lahey Health
- Black Economic Justice Institute
- Black Teachers Matter
- Boston Area Rape Crisis Center
- Boston Bar Association
- Boston Health Care for the Homeless Program
- Boston Housing Authority
- Boston Medical Center
- Boston Public Health Commission
- Boston Teachers Union
- Boston Tenant Coalition
- Brockton Neighborhood Health Center
- Brockton Interfaith Community
- Cambridge Health Alliance
- Cambridge Residents Alliance
- Casa Myrna
- Cathedral Church of St. Paul
- Catholic Charities Worcester County
- Center for Human Development
- Central Massachusetts Housing Alliance
- Charter Street Tenant Association
- Chelsea Police Department
- Chelsea Public School Committee Chair, Kelly Garcia
- Children Advocacy Center of Suffolk County
- Children's HealthWatch
- Children's Services of Roxbury
- Chinese Progressive Association
- Citizens' Housing and Planning Association
- City Life/Vida Urbana
- City Mission Boston
- City of Boston
- City of Boston Veterans' Services
- City of Boston (City Council Resolution)
- City of Cambridge (City Council Resolution)
- City Northampton (City Council Resolution)
- City of Salem (City Council Resolution)
- City of Springfield (City Council Resolution)
- City Manager of Cambridge, Louis A. DePasquale
- Coalition for Social Justice
- Codman Square Neighborhood Development Corporation
- Community Action Agency of Somerville
- Community Action Pioneer Valley
- Community Care Cooperative
- Community Health Network for North Central Mass
- Coalition for a Healthy Greater Worcester
- Cooley Dickinson Health Care, Northampton
- Conference of Boston Teaching Hospitals
- Craig's Doors - A Home Association
- Dana-Farber Cancer Institute
- De Novo Center for Justice and Healing
- Disability Policy Consortium
- DOVE (Domestic Violence Ended)
- East Boston Social Centers
- Easthampton Affordable and Fair Housing Partnership
- Economic Mobility Pathways (EMPath)
- Edward M. Kennedy Community Health Center
- Eliot Community Human Services
- Elizabeth Freeman Center
- Episcopal Diocese of Massachusetts
- Fall River Confronting Discrimination Committee
- Fall River Housing Joint Tenant Council
- Family Promise Metrowest
- FamilyAid Boston
- Father Bill's & MainSpring
- Fenway Community Development Corporation
- Food Bank of Western Massachusetts
- Framingham Public Health Department
- Greater Boston Labor Council
- Greater Boston Legal Services
- Greater Framingham Community Church
- Greater Lawrence Community Action Council
- Grow A Strong Family

- HarborCOV: Communities Overcoming Violence
- Harvard Legal Aid Bureau
- Heading Home
- Health Care For All
- Health Resources in Action
- Heisler, Feldman & McCormick
- Holland & Knight LLP
- HomeStart
- Homes for Families
- Horizons for Homeless Children
- Housing Families
- Immigrant Service Providers Group/Health
- Inquilinos Boricuas en Accion
- Institute for Community Health
- Inter-Church Council of Greater New Bedford
- Jane Doe, Inc.
- Jewish Alliance for Law and Social Action
- Jewish Community Relations Council of Greater Boston
- Jewish Family & Children's Service
- JP Progressives
- Justice Center of Southeast Massachusetts
- La Collaborativa
- La Comunidad
- Latinos Unidos En Massachusetts
- Law Office of Laura M. Unflat
- Lawyers Clearinghouse
- Lawyers for Civil Rights in Boston
- Lawrence Community Works
- League of Women Voters Massachusetts
- Legal Services Center of Harvard Law School
- LEO, Inc.
- Lexington Housing Partnership Board
- LivableStreets
- Local Initiatives Support Corporation - Boston
- Lynn Community Health Center
- Lynn Housing Authority & Neighborhood Development
- Lynn United for Change
- Maloney Properties, Inc.
- Mandela Residents Cooperative Association, Inc.
- Mass Alliance of HUD Tenants
- Mass Alliance of Portuguese Speakers
- Mass Appleseed Center for Law and Justice
- Mass Association for Mental Health
- Mass Association of Community Development Corporation
- Mass Association of Community Health Workers
- Mass Bar Association
- Mass Catholic Conference
- Mass Coalition for the Homeless
- Mass Communities Action Network (MCAN)
- Mass Fair Housing Center
- Mass General Brigham
- Mass General Hospital Center for Community Health Improvement
- Mass Housing and Shelter Alliance, Inc.
- Mass Law Reform Institute
- Mass League of Community Health Centers
- Mass LGBTQ Bar Association
- Mass Political Cooperative
- Mass Public Health Association
- Mass Senior Action Council
- Mass Smart Growth Alliance
- Mass Teachers Association
- Mass Union of Public Housing Tenants
- Mayor Gary Christenson, Malden
- Mayor Katjana Ballantyne, Somerville
- Mayor Carlo DeMaria, Everett
- Mayor Paul Heroux, Attleboro
- Mayor Jared Nicholson, Lynn
- Mayor Joseph M. Petty, Worcester
- Mayor Dan Rivera, Lawrence
- Mayor Sumbul Siddiqui, Cambridge
- Mayor Robert F. Sullivan, Brockton
- Mayor Linda M. Tyer, Pittsfield
- Medical-Legal Partnership|Boston
- Mental Health Legal Advisors Committee
- Metro Housing|Boston
- Metropolitan Area Planning Council
- Metropolitan Mayors Coalition
- MetroWest Legal Services
- Middlesex Community College
- NAACP New Bedford Branch
- National Association of Social Workers, Mass. Chapter
- National Lawyers Guild, Mass. Chapter
- Neighborhood Assistance Corporation of America
- NeighborWorks Housing Solutions
- New Bedford Community Health Center
- Northampton Human Rights Commission
- Northampton Survival Center
- Northeast Justice Center
- NuLawLabs at Northeastern University School of Law
- Nuestra Comunidad Development Corporation
- One Family
- Open Sky, Worcester
- Our Father's House
- Pioneer Valley Workers Center
- Preservation of Affordable Housing, Inc.
- Progressive Democrats of Massachusetts
- Progressive Mass
- Project Hope

- Public Health Institute of Western Massachusetts
- Public Interest Law Foundation at Boston College Law School
- Regional Housing Network of Massachusetts
- Residents Council for the Senior & Disabled Tenants of Quincy Housing Authority
- Right to the City Boston
- Rosie's Place
- Roxbury Community College
- Samaritans Southcoast
- Senior Residents Council
- ServiceNet
- Solidarity Lowell
- Somerville Dept. of Veterans' Services Director, Ted Louis Jacques
- Somerville Homeless Coalition
- Society of St. Vincent de Paul Boston
- Solidarity Lowell
- South Middlesex Opportunity Council, Inc.
- Springfield Dementia Friendly Coalition
- Springfield No One Leaves
- Springfield Partners for Community Action, Inc.
- St. Francis House
- Stop Bullying Coalition
- Temple Sinai of Sharon
- Tenant Advocacy Project at Harvard Law School
- The Neighborhood Developers
- The Second Step
- Three Pyramids
- Town Administrator of Brookline, Mel Kleckner
- Town Manager of Amherst, Paul Bockelman
- Town Manager of Arlington, Sandy Pooler
- Town Manager of Danvers, Steve Bartha
- Town Manager of Randolph, Brian Howard
- Town Manager of Winthrop, Austin Faison
- Trinity Financial
- Urban Edge
- UNITE HERE Local 26
- United Food and Commercial Union Local 1445
- United Way of Massachusetts Bay and Merrimack Valley
- University of Massachusetts School of Law - Dartmouth
- Veterans Legal Services
- Volunteers of America
- Way Finders
- Western Massachusetts Network to End Homelessness
- WATCH Community Development Corporation
- WinnCompanies
- Womanshelter/ Compañeras
- Women's Bar Association
- Women's Fund of Western Massachusetts
- Worcester County Food Bank
- Y2Y Network
- YWCA Cambridge
- 123 Up And Adam, Inc.

# 2023 Testimony to the Judiciary Committee in Support of Access to Counsel

On May, 9, 2023, the Judiciary Committee, chaired by Senator Eldridge and Representative Day held a hearing on **H.1731 *An Act promoting access to counsel and housing stability in Massachusetts*** (*Lead sponsors: Rep. Dave Rogers & Rep Mike Day*). The following people and organizations testified either at the hearing and/or submitted written testimony in support of the bill.

- **Massachusetts Attorney General Andrea Campbell**
- **AARP Massachusetts, Mike Festa, State Director**
- **Boston Bar Association**
- **Boston Office of Housing Stability, Danielle Johnson, Deputy Director**
- **Citizens Housing and Planning Association, Abhi Kurve**
- **Jewish Alliance for Law and Social Action, Cindy Rowe, Executive Director**
- **Disability Policy Consortium, R Feynman, Senior Community Organizer**
- **La Colaborativa, Gladys Vega, Exec. Dir. & Norieliz DeJesus, Policy & Organizing**
- **HomeStart, Vinny Wisniewski, Homelessness Prevention Program Director**
- **League of Women Voters of Massachusetts, Lorelee Stewart**
- **Massachusetts Catholic Conference, James F. Driscoll, Executive Director**
- **Mass Coalition for the Homeless, Kelly Turley, Associate Director**
- **Mass Law Reform Institute, Annette Duke, Housing Attorney**
- **Mass Union of Public Housing Tenants, Renee Spencer**
- **Metro Housing|Boston**
- **Metropolitan Area Planning Council, Mark D. Draisen, Executive Director**
- **Public Health Institute of Western Mass., Jessica Collins, Executive Director**
- **Somerville Mayor Ballantyne & Ellen Shachter, Dir. of the Office of Housing Stability**
- **Stoneham Tenants Association, Lisa Chuisa and Kenneth McPherson**
- **Volunteer of America Massachusetts, Charles Gagnon, President and CEO**
- **Western Massachusetts Network to End Homelessness, Pamela Schwartz, Director**
- **WinnCompanies, Trevor Samios**
- **Women's Bar Association of Massachusetts, Jessica Babine, President**

# 2023 Testimony to the Housing Committee in Support of Access to Counsel

On September 27, 2023, the Housing Committee, chaired by Senator Lydia Edwards and Representative James Arciero held a hearing on S. 864 ***An Act promoting access to counsel and housing stability in Massachusetts*** (Lead sponsor: Senator Sal DiDomenico). The following people and organizations testified either at the hearing and/or submitted written testimony in support of the bill.

- **Senator Sal DiDomenico**
- **AARP Massachusetts, Mike Festa**
- **ACLU Massachusetts**
- **Abundant Housing, Mike Kriesberg**
- **Ben Levine, Housing Attorney**
- **Boston Bar Association, Mary Ryan**
- **Boston Office of Housing Stability, Danielle Johnson**
- **Citizens Housing and Planning Association, Abhi Kurve**
- **Disability Policy Consortium, R Feynman**
- **Heisler & Feldman, P.C., Joel Feldman**
- **HomeStart, Vinny Wisniewski**
- **Immigrant Service Providers Group/Health, Alex Pirie**
- **Jane Doe, Inc, Hema Sarang-Sieminski**
- **La Colaborativa, Gladys Vega and Velma Erazo**
- **League of Women Voters of Massachusetts**
- **Mass Alliance of HUD Tenants, Michael Kane**
- **Mass Association for Mental Health, Danna Mauch**
- **Mass Bar Association, Martin Healy**
- **Mass Catholic Conference, James Driscoll**
- **Mass Coalition for the Homeless, Kelly Turley**
- **Mass Law Reform Institute, Annette Duke**
- **Mass Public Health Association, Jeneczka Roman**
- **Mayor Ballantyne, City of Somerville**
- **Metro Housing|Boston's**
- **MetroWest Legal Services, Dan Daley**
- **Metropolitan Area Planning Council, Marc Draisen**
- **Nicole Summers, Georgetown University Law Center**
- **Progressive Mass, Jonathan Cohn**
- **Renee Spencer, Wellesley**
- **Salem Office of Neighborhood Stability, Lori Stewart**
- **Western Network to End Homelessness, Pamela Schwartz**
- **WinnCompanies, Trevor Samios**
- **Women's Bar Association, Jessica Babine, President**



**Joint Committee on the Judiciary**  
**May 9, 2023**  
**Testimony of Attorney General Andrea Joy Campbell**  
*As Prepared for Delivery*

---

Thank you, Chairman Day, Chairman Eldridge, and esteemed members of the Committee. Thank you for taking me out of turn. I appreciate the opportunity to appear before you today.

I am joined by Anne Landry, Chief of our Policy and Government Affairs Division, and Cyndi Mark, Chief of the Public Protection and Advocacy Bureau, which is the front lines of my Office's efforts to keep people housed.

I am appearing before this Committee for the first time as your Attorney General- but this will not be the last. I look forward to working closely together with this Committee and the Legislature to solve some of our Commonwealth's most intractable problems. In my short time in the Office, housing has risen to the top of the list of the most pressing issues facing the residents of the Commonwealth.

I am here to convey my strong support for House Bill 1731, *An Act promoting access to counsel and housing stability in Massachusetts*, filed by Chairman Day and Representative Dave Rogers, as well as for the HOMES Act, *An Act promoting housing opportunity and mobility through eviction sealing*, filed by Senator Edwards and Representative Mike Moran.

## Access to Counsel

My Office's Consumer Advocacy and Response Division accepts consumer complaints related to rental housing and landlord-tenant issues, including eviction.

In 2022, for the first time ever, complaints about rental housing outpaced all other consumer complaints to my office.

We received more than 600 calls to our consumer hotline from tenants facing eviction, plus over 1,000 written complaints or request for assistance.

Based on the first quarter of this year, we are on pace to exceed those numbers in 2023.

In response to these complaints and requests for assistance with housing, our team of experienced housing specialists works with tenants and landlords to try and prevent eviction. We mediate disputes and connect tenants with resources, such as rental assistance programs. Ultimately, however, my office does not provide direct legal representation to tenants. Therefore, once a landlord files a summary process complaint in court, we refer households to private attorneys.

Because most people facing eviction can't afford to hire an attorney, we often refer complaints about evictions to a legal services organization.

We are fortunate to have incredible and hard-working legal services attorneys in the Commonwealth. But given that demand for their services exceeds supply, many tenants are unable to secure legal representation. And, without legal representation, many tenants risk becoming unhoused.

In Fiscal Year 2020, 81.4% of landlords in housing court had legal representation in eviction proceedings, compared to 8.5% of tenants.

A robust access to counsel program in Massachusetts, like that envisioned by *An Act promoting access to counsel and housing stability in Massachusetts*, can provide this vital help.

This bill will help promote economic stability for countless individuals and families across the Commonwealth, ensuring tenants have an opportunity to be heard and are able to assert their legal rights.

It will provide tenants with meritorious defenses to eviction the opportunity to be heard and the ability to assert their legal rights.

I also applaud the selection of the Massachusetts Legal Assistance Corporation (MLAC) as chief administrator for this program. Using funds from the National Mortgage Settlement, the AG's office partnered with MLAC from 2012- 2015 to provide legal assistance to nearly 2,000 homeowners facing foreclosure. MLAC successfully brought together legal services organizations from across the state to build a state-wide foreclosure prevention program. This program changed the trajectory of people's lives, and Massachusetts can and



should take this opportunity to marshal similar critical resources to assist families who rent their homes.

### Eviction Sealing

The HOMES Act offers a critical solution to the enduring impact of eviction for Massachusetts residents, especially women of color, and will help expand access to stable housing and economic mobility for all.

An eviction record – even one that has been dismissed or was brought in retaliation for a tenant exercising her rights – is a barrier to safe and stable housing that can have a long-term and devastating impact on a family. As soon as an eviction case is filed, a tenant has an eviction record even if they later win their case in court.

This legislation would protect tenants by providing a process to petition the court to seal some types of records:

- For tenants facing no-fault eviction: after the conclusion of the case;
- For tenants facing a non-payment eviction: within 14 days of satisfying a judgment or agreement; and
- For tenants facing fault eviction: after 7 years (without another fault eviction case).

This legislation will help address the disparate impact of eviction screening policies on people of color, especially low-income Black women.

In Massachusetts, Black renters are, on average, 2.4 times more likely to have

an eviction filed against them than white renters. And Black women face the greatest risk of having an eviction case filed against them in Massachusetts.

Black women, and other women of color, are especially vulnerable to eviction because of other inequities, including wage and wealth disparities and discrimination against families with children and domestic violence survivors.

We know that housing stability is critical for economic mobility. By limiting damaging eviction records, the HOMES Act reduces barriers to renting or buying a new home in a community where residents want to live and where they can thrive.

With expanded access to stable and affordable housing, individuals and families will be better able to work, care for their families, and provide educational opportunities for their children. Increasing a family's choice to live in the community they want will also help create economic growth by allowing more residents to live closer to their jobs.

I am committed to leveraging the tools of my office to help tackle the urgent housing shortage and affordability crises in the Commonwealth. The HOMES Act represents a critical and practical step we can take to expand access to stable housing, and promote economic mobility, for all Massachusetts residents.

Before I conclude I would be remiss if I did not also encourage the legislature to revive and make permanent chapter 257, contemplated by *An Act relative to summary process and rental assistance*, filed by Senator Miranda and

Representatives Montañó and Capano. Chapter 257 allowed a tenant facing eviction for non-payment of rent to secure a continuance of their case where the non-payment was due to financial hardship and the tenant has a pending application for rental assistance. Chapter 257, which expired on March 31<sup>st</sup> of this year, was a critical tool in our collective efforts to keep families housed, and we should make it a permanent one.

Thank you again for the opportunity to testify before you today.

As always, my office and I are ready and available to work with you and your staff on this important legislation and to answer any questions you may have.



# MASSBAR

A S S O C I A T I O N

September 28, 2023

Honorable Lydia Edwards  
Senate Chair  
Joint Committee on Housing  
State House, Room 413F  
Boston, MA 02133

Honorable James Arciero  
House Chair  
Joint Committee on Housing  
State House, Room 38  
Boston, MA 02133

**Re: S.864 An act promoting access to counsel and housing stability in Massachusetts.**

I write on behalf of the Massachusetts Bar Association and its 14,000 members throughout Massachusetts in support of the above-captioned legislation which would provide legal representation for both low-income tenants and low-income owner occupants in eviction proceedings, who meet eligibility requirements. The program, which would be administered by the Massachusetts Legal Assistance Corporation would designate non-profit organizations to provide full legal representation.

It is clear that legal representation makes a difference. We saw that firsthand in 2020 when the temporary COVID Eviction Legal Help Project was established. Legal providers handled 4,698 eviction cases in Massachusetts resulting in positive outcomes in 92% of cases. We have a unique opportunity before us to create a permanent right to counsel program in Massachusetts. A permanent right to counsel program can prevent families from becoming homeless by offering a lifeline when faced with overwhelming task of representing yourself in court.

For the reasons stated above we encourage you to give S.864 a favorable report. Thank you for your attention to this matter. Please do not hesitate to contact me should you have any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Martin W. Healy".

Martin W. Healy  
Chief Legal Counsel and  
Chief Operating Officer



**Testimony of the Boston Bar Association  
Before the Joint Committee on Housing  
In Support of S. 864  
An Act promoting access to counsel and housing stability in Massachusetts  
Presented by Mary Ryan, former BBA President  
September 27, 2023**

I am Senior of Counsel at the law firm Nutter McClennen & Fish LLP in Boston. I offer this testimony—supplementing my testimony at the Housing Committee’s September 26 public hearing—on behalf of the Boston Bar Association, an organization with more than 15,000 members, which I previously led as president some 20 years ago.

The BBA is a proud member 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 Boston Bar.

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—which I co-chaired along with Jayne Tyrrell, then director of the Massachusetts IOLTA program—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 people 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 *Adjartey* 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 can't 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—this legislation 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's 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.

I want to also praise 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. The BBA stands ready to work with the Housing Committee on legislation toward that goal and on building housing stability statewide.

**The Women's Bar Association**  
105 Chauncy Street, 8<sup>th</sup> Floor  
Boston, MA 02111  
Ph: 617.973.6666  
Fax: 617.973.6663  
www.womensbar.org

**President**  
Jessica Babine

**President-Elect**  
Alexandra Mitropoulos

**Vice President, Membership  
& Statewide Outreach**  
Kim Donlon

**Vice President, Operations**  
Julie Dick

**Treasurer**  
Payal Salsburg

**Secretary**  
Emily Robey-Phillips

**Board of Directors**  
Jessica Caamano  
Margaret Caulfield  
Martha Coakley  
Meghan Cooper  
Angie Cunico  
Nicole Forbes  
Heather Gamache  
Kate Isley  
Elizabeth Keeley  
Gwen Nolan King  
Kristy Lavigne  
Lesley Leonessa  
Diana Li  
Jamie Sabino  
Amy Sennett  
Sarah Sousa  
Ellen Sullivan  
Jenna Ventorino  
Sarah Walsh

**Executive Director**  
Margaret E. Talmers

September 27, 2023

Honorable Lydia Edwards  
Senate Chair, Joint Committee on Housing

Honorable James Arciero  
House Chair, Joint Committee on Housing

Delivered via email to [luke.oroark@mahouse.gov](mailto:luke.oroark@mahouse.gov),  
[christianna.golden@masenate.gov](mailto:christianna.golden@masenate.gov)

**RE: Women's Bar Association's Support for S.864, An Act promoting  
access to counsel and housing stability in Massachusetts**

Dear Chairs of the Joint Committee on Housing,

On behalf of the Women's Bar Association of Massachusetts (WBA), I submit this testimony in support of **S/864, An Act promoting access to counsel and housing stability in Massachusetts**. This bill would provide for access to legal representation for low income and vulnerable tenants and owner occupants of 1-3 family homes in eviction cases.

Founded in 1978, the WBA is a professional association of women attorneys with over 1,500 members across the state. We have been committed to achieving the full and equal participation of women in a just society for more than forty years. The WBA joins with the Access to Counsel Coalition, made up of over 240 diverse organizations including property owners, racial justice groups, municipal leaders, and public health members, to support this bill and urge members of the Housing Committee to report it favorably out of committee.

This bill is consistent with the WBA's mission, and our long-standing and unwavering support for MLAC funding, which is critical to ensuring equal access to justice for people living with low incomes.

The trauma of evictions has been and continues to be disproportionately felt by women. This year, between January 1, 2023 and April 10, 2023, according to the U.S. Census Bureau:

- 24,910 Massachusetts women reported it was very likely that they would need to leave their home due to eviction in the next two months; and

- 119,476 Massachusetts women reported that it was somewhat likely that they would need to leave their home due to an eviction in the next two months.<sup>1</sup>

Data also shows that women are evicted 16% more often than men, and eviction rates are higher for women of color: each year, 36.3% more Black women are evicted than Black men.<sup>2</sup> Further, evictions disproportionately affect Black and Hispanic renters, who are more likely to experience serial evictions, 1 in 7 of them facing multiple evictions at the same address; this bill would address those racial disparities by providing counsel to low-income Black and Hispanic renters.<sup>3</sup>

Legal assistance can make a clear difference to low income and vulnerable people, and a more comprehensive strategy on housing stability is urgently needed. In Massachusetts, under the COVID Eviction Legal Help Project, a temporary project created in October 2020 in response to the pandemic, seven legal services providers handled 4,698 eviction cases statewide. **Positive outcomes were obtained in 92% of cases receiving extended services: in 66% of those cases the tenancy was preserved and in 26% of those cases additional time was received.**<sup>4</sup> But that project ended on December 31, 2021.

In 2021, Connecticut passed a statewide right to counsel program for eviction cases and allocated \$20 million from American Rescue Plan funding over two years to launch their right to counsel program off the ground while they find a permanent source of funding. In 2021, Washington state and Maryland likewise passed access to counsel programs. It is time for Massachusetts to do the same.

The WBA respectfully urges you to support the passage of S.864, An Act promoting access to counsel and housing stability in Massachusetts, and provide low-income vulnerable households with a legal lifeline when they are facing eviction.

Thank you for your consideration.

Sincerely,

Jessica Babine  
President, Women's Bar Association of Massachusetts

---

<sup>1</sup> U.S. Census Bureau Household Pulse Surveys for Weeks 53-57 (January 1, 2023-May 8, 2023) available at [census.gov/programs-surveys/household-pulse-survey/data.html](https://www.census.gov/programs-surveys/household-pulse-survey/data.html).

<sup>2</sup> Hannah Middlebrooks, National Women's Law Center, "The Eviction Crisis is a Women's Crisis - The Right to Counsel Can Help," 6-28-2021, [nwlc.org/blog/the-eviction-crisis-is-a-womens-crisis-the-right-to-counsel-can-help/](https://www.nwlc.org/blog/the-eviction-crisis-is-a-womens-crisis-the-right-to-counsel-can-help/)

<sup>3</sup> Ibid.

<sup>4</sup> Massachusetts Legal Assistance Corporation, 2021. CELHP Case Data through 6/30/2021.



September 27, 2023

Honorable Lydia Edwards  
Senate Chair  
Joint Committee on Housing

Honorable James Arciero  
House Chair  
Joint Committee on Housing

**In Support of S. 864 - An Act promoting access to counsel and housing stability in Massachusetts (Senator DiDomenico)**

Chair Edwards and Chair Arciero and Members of the Joint Committee on Housing:

Thank you for the opportunity to testify. My name is Renee Spencer. I am a public housing tenant in Wellesley and Resident Board Member on the Wellesley Housing Authority Board.

About 12 years ago, I was evicted by the Wellesley Housing Authority for non-payment of rent. My son was away at college. I had been a tenant for 32 years and I was very active in public service in Wellesley and in helping other tenants in my community.

Despite working two jobs, I fell behind on rent. Then one day, I came home to find an eviction notice on my door. I will never forget this.

The following week, I went into court alone with over \$500 in cash in my pocket to put towards a payment plan with the housing authority. I thought that given my long history as a responsible tenant I would be able to negotiate a payment plan. I was wrong.

The housing authority had a lawyer - I did not.

In court, I tried to explain my long history with the housing authority and that for over 30 years I had been a good tenant. The judge urged the housing authority's attorney to negotiate with me because I had come to court with money to put towards a payment plan. But the housing authority's attorney refused. I was evicted.

I felt devastated and after the initial shock wore off, I packed most of my things into my car and moved in with my sister a couple days later. I was homeless for four years, staying with friends or family. It was embarrassing, and I walked away from public service and from helping tenants because of the trauma.

Later though, my eviction motivated me to help other tenants. I am back as a tenant in Wellesley public housing and was elected as commissioner for Wellesley Housing Authority board. I also am a member of the League of Women Voters, Town Meeting Member, and a board member on Wellesley Friendly Aid.

I know the difference a lawyer can make. It feels like when you are by yourself in an eviction, you don't have a chance at all. **Having a lawyer on your side is the difference between staying in your home or being forced to leave without your control.**

We need to establish an Access to Counsel program in Massachusetts. Please report S. 864 out favorably. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Renee Spencer". The signature is written in black ink and is positioned below the word "Sincerely,".

Renee Spencer  
Wellesley, Massachusetts



**WinnCompanies**

Development | Residential | Military

One Washington Mall,  
Suite 500 Boston,  
Massachusetts  
02108

(617) 742-4500 | T  
(617) 742-0725 | F

[www.winncompanies.com](http://www.winncompanies.com)

September 20, 2023

Senatre Chair Edwards and House Chair Arciero and Housing Committee Members, thank you and the Housing Committee for accepting my statement on behalf of WinnCompanies in support of Senate Bill, S. 864, An Act promoting access to counsel and housing stability in Massachusetts.

My name is Trevor Samios, and I'm the Senior Vice President of Connected Communities at WinnCompanies. WinnCompanies is a Boston-based national developer and manager of multifamily affordable and mixed-income housing communities, with over 19,000 apartment homes under management in the Commonwealth across 200 communities- CDCs, non-profits, resident-owned cooperatives and communities owned by our company. We are also the largest private operator of affordable housing in the state of Massachusetts. I am also submitting testimony on behalf of our peer, Beacon Communities, owner and property manager of 8,500 affordable apartment homes in the Commonwealth. Together, we manage over 27,000 apartments, home to over 69,000 families.

In my role, I oversee a team of housing-based community organizers, social workers and program specialists centered on supporting families in achieving the goals they set for themselves. One of these programs is WinnCompanies [Housing Stability Program](#), an effort focused on strengthening our commitment to eviction prevention and housing stability across our Massachusetts rental housing portfolio along with a pledge to reduce our evictions by 50% over the next five years. This effort, honed during the pandemic, aims to proactively and sustainably preserve housing stability for individuals and families through **education and outreach, upstream interventions and coordinated emergency rental assistance, protracted payment agreements and mediation, and clear accountability for our team members. We also created this program to serve** a blueprint for large and small operators of multi-family affordable and mixed-income housing to do the same.

As an owner and operator, we bring an informed, first-hand perspective of what is and what isn't working on the ground when it comes to our shared goals of housing stability and eviction diversion.

Since April 2020, our Massachusetts team members have supported over 11,000 households the program, nearly 60% of our MA residents, through protracted, responsible payment agreements, rent adjustments based on financial hardship, unemployment and benefits application assistance, and coordinated, accountable emergency rental assistance support. These efforts have helped over 3,000 of these households access over \$12 million in emergency rental assistance funds through rental assistance programs like RAFT. These efforts have also resulted in ZERO non-payment eviction filings for households facing financial hardship who have worked with us as part of the program.

Many are not participating in our program, however.

Some are households traumatized by medical and financial hardship throughout the pandemic. Some face an overwhelming fear of what appears to be insurmountable rental delinquency. There are language barriers and technology barriers to rental assistance. Some are confused by mixed messaging about the previous eviction moratorium. Within the emergency rental assistance programs, complicated legal and program compliance and language in tenant consent forms also play a role. As we've seen with some Massachusetts owners and operators in



the past six months, some households contest the delinquent rental balances attributed to their household, and will not agree to rental assistance or other supports provided by property owners. Some are unfamiliar with the income recertification process and its ability to change tenant portions of rental rates. Some just simply believe there are no options and await eviction filing as the unfortunate next step.

Because of these reasons and others, delinquency across our Massachusetts portfolio has now risen to over \$8.5 million in tenant-pay rent, affecting nearly 2,000 households that would otherwise face eviction. Still, we work to refine our Housing Stability Program so that any resident facing a non-payment eviction due to financial hardship has upstream options to maintain their home, their health, and their dignity. **A key part of this, we believe, is a right to counsel for residents facing the prospect of eviction, and we've held this belief since long before the pandemic began. We believe now, more than ever, that unrepresented residents will need counsel to navigate complicated and remote eviction processes. While the majority of property owners and their management companies have legal representation in these circumstances, we find the majority of households in the court system do not, leaving many now in the most vulnerable of situations. Similarly, small landlords unable to afford an attorney will also benefit from this bill. At its core, the right to counsel seeks housing stability and economic security for individuals, families, and communities- a principle that is central to the mission of WinnCompanies, and we believe, to the Commonwealth of Massachusetts.**

In our own experience, households facing eviction in court without Counsel face the fear and intimidation of a legal environment and process for which they have no context. Payment plans and settlement agreements offered by opposing counsel are often brief and unachievable and not fully understood. Many face disadvantages through language, mental health and other barriers. We have seen the help attorneys provide in supporting both tenants and property owners to achieve workable, fair results and as housing courts in the Commonwealth face an unprecedented backlog, right to counsel will support the efficient and expedient review and processing of cases. Access to counsel also could reduce the cost of executions. The Boston Bar Association report from 2020 estimated the cost of executing an eviction in subsidized housing is between \$5,500 and \$8,000. In Boston alone in 2014 there were 1,056 executed evictions in subsidized housing suggesting that the annual cost of executing subsidized evictions was between \$5.8 million and \$8.5 million. As legal representation leads to a decrease in tenants losing their homes, fewer executions would likely result, which would be a cost saving to property owners.

**Access to counsel in combination with clear, responsible and sustainable payment agreements and coordinated rental assistance like RAFT can help to both prevent eviction executions *and* create a sustainable pathway to housing stability for so many now facing the prospect of eviction.**

**WinnCompanies applauds these proposed interventions to promote housing stability and provide households facing eviction with the Right to Counsel and Eviction record sealing. At this moment, we have an opportunity launch a right to counsel program in Massachusetts, like Connecticut has done, and to reimagine the future of this state- to implement what is fair, what is right, and what we know from other states can work to stem the tide of homelessness and promote pathways to true housing stability. The aftermath of our shared public health pandemic, and the economic uncertainty it has brought for so many can be faced together, and we believe these bills can have a transformational result for both the uncertainty of now and the systemic change needed for our Massachusetts communities to have long term, stable, resilient futures.**

WinnCompanies urges the Housing Committee to report S. 864 out favorably with time for this bill to advance to the Governor's desk. Thank you for your time and your attention to this vital need.





City of Boston  
Mayor's Office of Housing

October 2, 2023

Senator Lydia Edwards, Chair  
Joint Committee on Housing  
State House - Room 413-C  
Boston, MA 02133

Representative James Arciero, Chair  
Joint Committee on Housing  
State House - Room 146  
Boston, MA 02133

Dear Chair Edwards, Chair Arciero and Honorable Members of the Committee:

I submit this testimony in support of S. 864, *An Act promoting access to counsel and housing stability in Massachusetts*. I currently serve as the Deputy Director of the Office of Housing Stability within the Mayor's Office of Housing in the City of Boston. It is with great privilege and a sense of urgency that I write to you today regarding the critical need for legislation that addresses housing stability and legal representation disparities within our state, particularly in Boston, where my office collaborates with community partners and the trial court to ensure equal access to legal resources.

Despite our collective efforts, including the operation of a weekly legal clinic by the Office of Housing Stability, an Attorney for the Day program by the court, and the presence of numerous legal aid organizations, it has become abundantly clear that these initiatives alone are insufficient to prevent tenants from entering into agreements that, on the surface, may appear equitable but, upon closer examination, are riddled with legalese and procedural tactics that are unduly punitive.

The Access to Counsel bill holds paramount importance for our community and aligns perfectly with our mission to safeguard housing stability for all residents. It offers a significant opportunity to rectify the persistent disparities within our eviction proceedings and empowers individuals and families to secure their housing rights.

By establishing a statewide Access to Counsel Program through this bill, we envision far-reaching positive effects on the lives of countless individuals and families.

This bill aims to address disparities in legal representation. Statistics demonstrate a stark contrast in legal representation in eviction cases. While landlords frequently have legal counsel, low-income tenants often lack access to attorneys. This disparity creates an unjust power imbalance in the courtroom, where landlords' interests are legally protected, while tenants' rights may remain unguarded.



Without this bill, we will continue to witness the severe consequences of unequal representation. Tenants lacking legal representation face significant disadvantages. They may unwittingly relinquish their rights or make uninformed decisions that detrimentally affect their housing stability. Furthermore, many tenants, driven by fear or a lack of legal knowledge, opt not to appear in court, resulting in default judgments against them.

This bill also promises to ensure fairness and housing stability by providing tenants and landlord owner-occupants with access to legal counsel during eviction proceedings. This access constitutes a fundamental step toward leveling the playing field, guaranteeing that all parties involved in eviction cases have the opportunity to navigate the legal system fairly and protect their rights.

The bill's provisions align with the work undertaken by our office, dedicated to helping residents find and maintain stable, safe, and affordable housing. It ensures equal access to resources and information, further promoting upstream eviction prevention by offering critical resources and support to both tenants and landlords.

The bill will enable us to create data-informed policy by consistently examining data. A [study](#) by Nicole Summers, spanning over five years and encompassing more than 1,000 eviction cases, revealed a direct, positive correlation between having legal representation and the outcomes of eviction cases. Shockingly, over 60% of filed cases resulted in punitive measures, disproportionately affecting tenants. These alarming statistics underscore the immediate need for the passage of this bill.

In a society where access to justice should be an inherent right for all, this bill represents a pivotal step toward achieving this goal. It acknowledges that housing stability transcends the provision of shelter and encompasses the equitable treatment of individuals and families within our legal system.

I implore the Housing Committee to consider the immense impact that this bill can have on the lives of our fellow residents. By advancing this legislation, we can take a significant stride toward reducing homelessness, fortifying our communities, and upholding the principles of justice and equity that the Commonwealth stands for.

Thank you for your attention to this matter. On behalf of the Mayor's Office of Housing, I strongly urge you to favorably report this bill out of committee for consideration by the entire Legislature.

Sincerely,

Danielle Johnson, Esq.



City of Boston  
Mayor's Office of Housing

Deputy Director, Office of Housing Stability  
Mayor's Office of Housing

**Testimony submitted to the Joint Committee on Housing In support of S.864 An Act Promoting Access to Counsel and Housing Stability in Massachusetts.**

**By Lori Stewart, Neighborhood Stability Coordinator/Office of Mayor Dominick Pangallo City of Salem September 27, 2023**

Good afternoon, Chair Edwards, Chair Arciero and Members of the Committee. My name is Lori Stewart. I am the Neighborhood Stability Coordinator for the City of Salem, a city with a population of 44,480. Forty eight percent of our residents are renters of low to moderate income. Thank you for the opportunity to testify today. On behalf of the City of Salem and Mayor Dominick Pangallo I urge you to favorably pass S.864, An Act Promoting Access to Counsel and Housing Stability in Massachusetts.

In July Salem passed a resolution in support of both Access to Counsel and Eviction sealing because eviction case filings between January- August 2023 in Housing Court statewide are surpassing the number of pre-pandemic eviction filings. Additionally, our State Representative Manny Cruz and State Senator Joan Lovely are both co-sponsors of this bill and last year as Mayor of Salem before she became lieutenant governor Kim Driscoll supported Access to Counsel.

In Salem we contract with a housing attorney through the Essex County Bar Association. Through this program we offer drop-in hours one day a week for 3 hours. This service is more than most municipalities can offer but even with this housing stability service I see many residents in various stages of eviction falling through the cracks, and struggling with the terror and stress that losing your home brings. Many people I see who are not evicted are feeling forced into agreements that they cannot sustain because they do not have full representation. I recently worked with Marisol, a 19-year-old single mother still attending high school who was facing eviction and the loss of her Section 8 voucher. Marisol's schedule of school, work and caring for a child prevented her from accessing Salem's housing stability service despite her best efforts. From the beginning when she first came to me everything having to do with her housing situation was over her head. I did my best to guide her, but I am not an attorney, and she eventually lost her home and her voucher. If she had had full legal representation this could have been avoided. Losing her home and voucher was devastating. Last I heard from Marisol she was doubled up with a distant relative hoping for something better. The stakes are so high, especially now with the astronomical numbers of folks on housing wait lists for deeply subsidized apartments and vouchers. Because Marisol could not access counsel, she lost her Section 8 voucher and may never get into affordable housing again.

Salem passed a resolution because the city wants to promote housing stability and anti-displacement, but we have reached a point where we need the state to act, we need this bill.





**TESTIMONY OF**  
**MIKE FESTA, STATE DIRECTOR, AARP MASSACHUSETTS**  
**REGARDING HOUSE BILL NO. 1731**  
**AN ACT PROMOTING ACCESS TO COUNSEL AND HOUSING STABILITY IN**  
**MASSACHUSETTS**  
**BEFORE THE JOINT COMMITTEE ON THE JUDICIARY**  
**BOSTON, MA**  
**MAY 9, 2023**

Good afternoon Chairmen Eldridge, Day, and members of the committee. My name is Mike Festa. I am the State Director of AARP Massachusetts. AARP is a nonprofit, non-partisan membership organization for people 50 and over. We have nearly 38 million members nationwide and 760,000 members in the Commonwealth. On behalf of AARP members and older residents of the Bay State, AARP Massachusetts urges you to favorably pass ***HOUSE BILL NO. 1731 - AN ACT PROMOTING ACCESS TO COUNSEL AND HOUSING STABILITY IN MASSACHUSETTS.***

We urge you to take steps to prevent an immediate state housing crisis. According to the National Low-Income Housing Coalition's (NLIHC) 2021 Out of Reach Report, housing in Massachusetts, ranked as 3rd most expensive in the nation, remains unaffordable for many – making it all the more important to ensure that people have access to supports to help them remain in their homes.

It is important to develop safeguards to make sure individuals and families remain securely housed. We encourage you to fund services that increase housing stability such as establishing a right to counsel for low-income people facing the loss of their homes. Strengthening access to legal resources before a court eviction can prevent families from becoming homeless, prevent illegal or unnecessary evictions, prevent displacement, and create a path to housing stability. We know that the vast majority of

individuals who don't have a lawyer in housing court lose, while the vast majority who do win.

AARP has a few recommendations for your consideration to strengthen the bill:

- o Under Section 16 (c) while selecting a designated organization for providing legal assistance for eligible individuals it is important that such organizations go through background checks, conflict checks (so that a particular organization is not favored), and regular evaluation, since they will be receiving funding from the state to perform legal representation.

- o In relation to regular evaluation, under Section 16 (f) the Massachusetts Legal Assistance Corporation shall be responsible for exercising oversight, implementing fiscal controls, and for all data collection, deliverables, and ongoing programmatic evaluation. However, the bill does not require the Massachusetts Legal Assistance Corporation to submit annual reports delineating the success/challenges to the right to counsel program to the Legislature or the Executive of the Commonwealth of Massachusetts or such other governmental body that would exercise oversight over the right to counsel program since the Massachusetts Legal Assistance Corporation is an independent body not a governmental agency. It is important not only to collect data but also to report such data to improve performance.

- o Under Section 16 (b), there is supposed to be dedicated state funding for the right to counsel program. The Commonwealth of Massachusetts can use the funding available under the Emergency Rental Assistance Program as an initial startup fund. There are other jurisdiction using the federal fund for tenant protection programs, including right to counsel programs.

We urge you to favorably pass **HOUSE BILL NO. 1731 - AN ACT PROMOTING ACCESS TO COUNSEL AND HOUSING STABILITY IN MASSACHUSETTS** to protect vulnerable residents of the Commonwealth from losing the protections afforded by stable and secure housing.

Thank you.



Jane Doe Inc.  
The Massachusetts Coalition  
Against Sexual Assault and  
Domestic Violence

PO Box 960849 | 617-248-0922  
Boston, MA 02196 | JaneDoe.org

September 26, 2023

Senate Chair  
Senator Lydia Edwards  
Joint Committee on the Housing

House Chair  
Representative James Arciero  
Joint Committee on the Housing

**Re: JDI's Support of S. 864, An Act promoting access to counsel & housing stability in Massachusetts**

Dear Chairs:

Jane Doe Inc, The Massachusetts Coalition Against Sexual Assault and Domestic Violence (JDI) brings together organizations and people committed to ending sexual assault and domestic violence and creating a more just and equitable world.

We join with the Massachusetts Access to Counsel Coalition, a broad-based coalition of over 240 organizations, **to urge the Housing Committee to report favorably S. 864, An Act promoting access to counsel and housing stability in Massachusetts.** S. 864 would establish a statewide Access to Counsel Program for income eligible low-income tenants and landlord owner-occupants in eviction proceedings.

JDI supports S. 864 because this bill brings a central tenet of survivor-advocacy, access to quality counsel, to the housing context. This bill recognizes that access to counsel, or the lack thereof, can make or break the likelihood of maintaining safe and stable housing.

For survivors of SA/DV in the aftermath of violence and trauma, the weeks, months and even years following an act of violence can be a critical time that directly impacts a survivor's long-term safety and stability. Economic insecurity is a hallmark of the aftermath of surviving violence because so often, emotional support systems, places of employment, childcare options, educational milestones and so much more are disrupted amidst a crisis that demands attention to safety and survival.

For survivors facing eviction, often as a direct result of the loss of economic support of a violent partner, maintaining housing stability can be life-giving. It can allow survivors to focus on their healing and economic stability over the crisis of housing insecurity.

Navigating legal systems and housing access is complex enough for most residents of

the Commonwealth. Successfully navigating legal systems amidst the aftermath of severe trauma can feel nearly impossible to many survivors. Adding provisions that will provide counsel for our most vulnerable residents, and especially survivors, facing eviction will directly improve survivor economic stability.

The trauma of evictions has and continues to be disproportionately felt by those most at risk for sexual assault and domestic violence. As the Women's National Law Center reported, women are evicted 16% more often than men, and eviction rates are higher for women of color: each year, 36.3% more Black women are evicted than Black men.<sup>1</sup> Domestic violence survivors can face evictions due to that violence and are often unaware of eviction defenses. Mothers are being evicted far more frequently than others,<sup>2</sup> and having children is the single greatest predictor of whether someone will face eviction.<sup>3</sup>

It is frightening to receive an eviction notice and daunting to represent yourself in court, especially if you have to go court unrepresented. The impact on survivors is compounded as housing instability heightens risk of further harm from domestic abuse and sexual violence. For survivors and families facing eviction, **legal representation is a life line.**

We hope that the Housing Committee will take action to report **S. 864** out favorably so that we can assure people in our communities that they will not be alone when facing eviction.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Juma Saeng-Sumski". The signature is written in a cursive, flowing style.

---

<sup>1</sup> Hannah Middlebrooks, National Women's Law Center, "The Eviction Crisis is a Women's Crisis - The Right to Counsel Can Help," 6-28-2021, [nwlc.org/blog/the-eviction-crisis-is-a-womens-crisis-the-right-to-counsel-can-help/](https://nwlc.org/blog/the-eviction-crisis-is-a-womens-crisis-the-right-to-counsel-can-help/)

<sup>2</sup> Lauren Sandler, "America Could Soon Face a Wave of Single Moms Being Evicted. A Simple Solution Exists That Could Help Them," Time, May 28, 2021, <https://time.com/6052556/evictions-single-moms-covid-19/8>

<sup>3</sup> Bryce Covert, "Why Landlord Target Mothers for Eviction," The New Republic, March 16, 2021, <https://newrepublic.com/article/161578/landlords-target-mothers-eviction-crisis-covid>

Hema Sarang-Sieminski, Esq.  
Deputy Director



**Testimony submitted to the Joint Committee on Housing in support of  
S.864 An Act Promoting Access to Counsel and Housing Stability in Massachusetts  
By Lorelee Stewart, LWVMA Affordable Housing Specialist  
September 27, 2023**

The League of Women Voters of Massachusetts supports S.864, An Act Promoting Access to Counsel and Housing Stability in Massachusetts.

We are amid a housing crisis which has been made worse by COVID – 19 and the severe public health consequences of eviction. In recognition of this crisis, Senator DiDomenico, Representative Rogers, and Representative Day have filed a bill promoting Access to Counsel and Housing Stability in Massachusetts.

S.864 will provide legal representation for low-income tenants **and** low-income owner-occupants in eviction proceedings. In the past several months, eviction filings have started to climb beyond what they were in 2019. Data from the Trial Court for Fiscal year 2022 shows us the inequity of legal representation that needs to be corrected. While 86% of landlords were represented, only 11.5% of tenants were represented. Tenants facing eviction are overwhelmingly poor, female, and people of color.

This bill is supported by a broad-based coalition of over 237 organizations that includes the legal community, housing advocates, health care providers, large property owners, municipal officials, social workers, teachers, the faith-based community, and many others including the League of Women Voters Massachusetts.

It is unacceptable that 9 out of 10 tenants are unrepresented; that more than 1 in 4 children living in poverty experience eviction by the age of 15; and that evictions are forcing families into shelters and unsafe housing conditions. Evictions negatively affect people’s physical and mental health, and result in job loss and decreased school attainment for children.

An Access to Counsel program must be part of a comprehensive strategy to address housing instability. Across the country, 3 states and 15 cities have enacted access to counsel programs and data from these locations is demonstrating that legal representation results in housing stability.

Data from the Massachusetts COVID Eviction Legal Help Project (CELHP), which was part of a comprehensive initiative to keep tenants safely in their homes when the state eviction moratorium expired, resulted in positive outcomes in 92% of eviction cases receiving extended services. In 66% of cases the tenancy was preserved and in 26% of cases additional time was received to better enable tenants to successfully relocate.

It is urgent to reduce the trauma caused by evictions for tenants and small landlords.

The LWVMA is especially concerned because the National Women’s Law Center stated, “[t]he eviction crisis is a women’s crisis -- the right to counsel can help.” As of August 30, 2021, about 4.4 million women nationally and over 65,000 women in Massachusetts were behind on rent. Women are evicted

16% more often than men, and nearly  $\frac{2}{3}$  of people aged 65 and older who are living in poverty are women and are at a high risk of housing instability. Mothers are being evicted far more frequently than others, especially single mothers. The mere presence of children puts one at a significantly heightened risk of being evicted. Domestic violence survivors can face evictions due to that violence and are often unaware of eviction defenses. 92% of homeless women have experienced physical or sexual violence at some point in their lives. These statistics mean that nearly all low-income tenants face the complicated and fast-moving eviction process alone, often going up against savvy landlords' attorneys resulting in swift eviction, and the disparity in representation has been growing. Evictions disproportionately affect low-income renters and communities of color. The ACLU Women's Project found that in Massachusetts, Black tenants are twice as likely as white tenants to face eviction despite making up only 11% of Massachusetts' population. Black women are 2.5 times more likely than white women to face eviction.

Access to counsel will give these community members the legal assistance they need to have a fair chance in asserting their rights in court and staying in their homes, thereby stabilizing housing, and communities in the long term. Evictions lead to homelessness, housing instability, overcrowding, displacement, and disruption of schooling for children, all of which are associated with negative health outcomes. The Boston Bar Association found that by providing full legal representation in eviction proceedings, the Commonwealth ultimately saves on costs associated with homelessness, including emergency assistance and shelter, health care, and foster care. Specifically, in their report, full legal representation in eviction cases would cost the Commonwealth \$26.29 million while the cost savings associated with such representation are estimated to be \$63.02 million. For every dollar spent on full legal representation in eviction cases, the Commonwealth saves approximately \$2.40 on the direct costs associated with homelessness.

The League has long been concerned about the availability of legal representation for both complainant and persons or institutions against whom complaints are lodged. The League, which represents 44 local Leagues from Cape Cod to the Berkshires urges the Joint Committee on Housing to report this bill favorably and quickly out of committee as the next step to addressing the Commonwealth's housing stability problem and to secure funding and enactment this session.



Massachusetts Catholic Conference  
66 Brooks Drive  
Braintree, MA 02184  
617-746-5630  
[www.macatholic.org](http://www.macatholic.org)

September 29, 2023

Hon. Lydia Edwards, Senate Chair  
Hon. James Arciero, House Chair  
Joint Committee on Housing  
State House  
24 Beacon St, Rooms 413-C, 146  
Boston, MA 02133

Re: Senate Bill 864

Dear Senator Edwards and Representative Arciero,

The Massachusetts Catholic Conference (MCC) is the public policy office of the Catholic Church in Massachusetts representing the Archdiocese of Boston along with the Dioceses of Fall River, Springfield, and Worcester. Please accept this letter in support of Senate Bill 864 entitled *“An Act promoting access to counsel and housing stability in Massachusetts”*.

This legislation, if passed, would establish a “Right to Counsel Program” to provide legal representation for indigent individuals facing eviction proceedings in Massachusetts.

Today, a vast majority of landlord/owners are represented by counsel in eviction proceedings. Most tenants facing this highly stressful, multi-level process do not have the means to hire counsel to protect their interest and the interests of those who depend on them. This program will level the playing field in court. It is an approach that would prevent sudden displacement of families by providing the stability needed to make the most vulnerable residents of our state more secure in their homes knowing they have a trained professional to assist them.

For too long the poorest among us have been marginalized across the United States including many communities in Massachusetts. This was particularly noteworthy during the worst months of the pandemic as we witnessed how disproportionately the virus was affecting the poorer communities as they struggled to survive and pay rent – many living in very tight quarters.



We must all realize that many of these same people stepped up and put their health and their family's health at risk to provide critical services to our communities – risking their own lives during the pandemic. We relied on their hard work during the darkest months of the pandemic and continue to rely on them today. They are grocery store workers, day care providers, janitors, restaurant employees just to name a few. They were and continue to be on the front lines. The poor, including many undocumented immigrants, provide these essential services and yet are often subject to eviction as wages remain low and the cost for rental units continue to rise at an unprecedented rate.

In 2021, it is estimated that 73% of individuals behind on their rent were people of color. Furthermore, statistics also indicate that poor women, particularly in the minority community, are the hardest hit. They are facing a disproportionate number of evictions compared to their male counterparts. Less than two years ago, it has been reported that approximately 65,000 women in Massachusetts were behind on their rent. Many of the women are single parents with young children. Many of these same women have been subject to domestic violence, maternal depression and the stress of raising a family without knowing if they will be homeless. Month after month they do their best to survive while the fear of being evicted from their home never subsides.

The Catholic Church teaches that “having adequate shelter is a basic human right; a right that the Church affirms as a key part of respecting and recognizing the individual. Ensuring everyone is able to access a safe, stable and adequate home is one part of working for the common good.”

The Boston Bar Association estimated that the “Access to Counsel Program” would cost the Commonwealth approximately twenty-six million dollars per year. This investment in our community is worth the cost because it is an investment in our most vulnerable members of society. It has been embraced by the State of Connecticut and many large cities across the United States and will be a very effective program in Massachusetts.

On behalf of the Roman Catholic Bishops of Massachusetts, the MCC strongly urges the Joint Committee on Judiciary to act favorably on Senate Bill 864.

Very truly yours,

James F. Driscoll  
Executive Director



May 9, 2023

Dear Chairs Eldridge and Day:

The Jewish Alliance for Law and Social Action (JALSA) is a membership-based non-profit organization based in Boston, with thousands of members and supporters statewide. Guided by Jewish teachings and values, we are devoted to the defense of civil rights, the preservation of constitutional liberties, and the passionate pursuit of social, economic, environmental, and racial justice for all people.

JALSA wishes to offer its testimony in strong support of **H. 1731, An Act Promoting Access to Counsel and Housing Stability in Massachusetts**. It is a profound injustice that, while 86% of landlords are represented by counsel in eviction cases, only 11.5% of tenants are represented by counsel, disproportionately harming tenants who are low-income, women, and people of color. It is particularly egregious that more than 1 in 4 children living in poverty experience eviction by age 15.

We need to level the playing field. Doing this is sensible – it saves landlords the costs of evictions, it saves the Commonwealth having to figure out how to house people who have lost their homes, and it lives up to our highest ideals of making sure that people are safely and securely housed.

Our basic human decency dictates that we do all we can to avoid eviction. Reaching back thousands of years, our faith-based values

have impressed upon us that housing is a right, and that we must take all steps that we can to protect tenants from eviction. Upholding human dignity, the fundamental Jewish value of kavod habriyot, demands that we ensure such protections for vulnerable populations.

JALSA would also like to offer its vocal support for **H. 1690 / S. 956, An Act Promoting Housing Opportunity and Mobility Through Eviction Sealing (the HOMES Act)**. This legislation follows similar tenant protections implemented in many other states. It would eliminate the stigma of a past eviction record that some prospective tenants face when seeking housing.

Additionally, JALSA expresses its support for **H. 1682 / S. 1048, An Act Relative to Summary Process and Rental Assistance**, which will further provide housing stability by preventing unnecessary evictions.

JALSA strongly urges the members of the Joint Committee on the Judiciary to report:

*An Act Promoting Access to Counsel and Housing Stability in Massachusetts;*

*An Act Promoting Housing Opportunity and Mobility Through Eviction Sealing; and,*

*An Act Relative to Summary Process and Rental Assistance* favorably out of committee.

Sincerely,



Cindy Rowe

Executive Director

Jewish Alliance for Law and Social Action

September 27, 2023

Honorable Lydia Edwards  
Senate Chair  
Joint Committee on the Housing

Honorable James Arciero  
House Chair  
Joint Committee on the Housing

**In Support of S. 864, An Act promoting access to counsel  
and housing stability in Massachusetts**

On behalf of the Massachusetts Access to Counsel Coalition, a broad-based coalition of upwards of 240 organizations, **we urge the Housing Committee to report favorably S. 864, An Act promoting access to counsel and housing stability in Massachusetts.**

S. 864 would establish a statewide Access to Counsel Program for income eligible low-income tenants and landlord owner-occupants in eviction proceedings. Tenants and owner-occupants whose incomes are below 80% of Area Median Income would be eligible for legal representation. The program would be administered by the Massachusetts Legal Assistance Corporation which would designate experienced non-profit organizations to provide full legal representation.

S. 864 lead sponsor Senator DiDomenico made important changes to this bill since the last session. To address questions about cost, sustainability and start-up, new language in S. 864 which clarifies that:

- A statewide “Access to Counsel Program” would be “subject to appropriation,” similar to many jurisdictions across the country.<sup>1</sup>
- The word “right” was changed to “access” to further clarify that the bill does not establish an unequivocal right, but is about access to full legal representation in eviction proceedings.
- An Access to Counsel Program would be phased-in over a period of 5-years to provide the time needed to build a sustainable program while incrementally meeting the need.

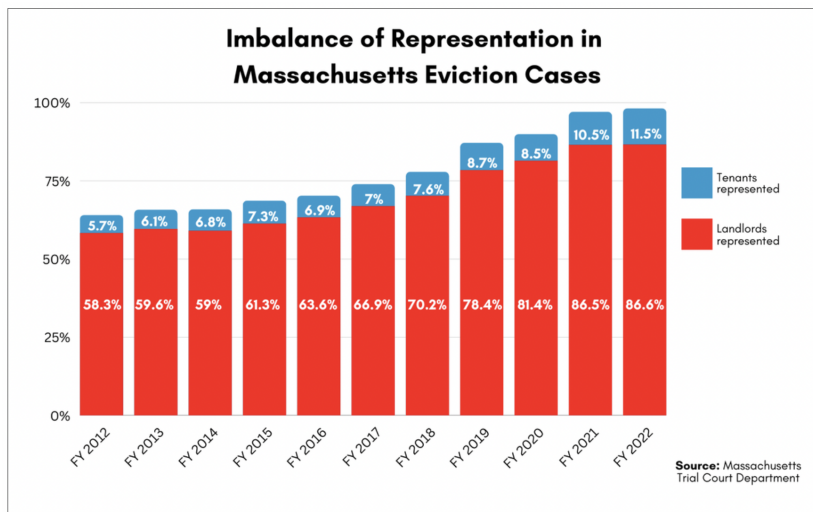
The inequity of legal representation in Massachusetts is stark. In 2023, the Massachusetts Trial Court Department reported that in non-payment cases in Housing Court, while 90% of landlords were represented, **only 2.5% of tenants were represented.**<sup>2</sup> This imbalance has persisted for

---

<sup>1</sup> “Subject to appropriation” or similar language was enacted in many jurisdictions adopting right to counsel programs, including Washington state (2021), Maryland (2021), Connecticut (2021), Toledo (2021), Denver (2021), Baltimore (2020), Newark (2018), and New York City (2017).

<sup>2</sup> Summary Process, Massachusetts Trial Court, September 24, 2023. Dashboard at: [public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtSummaryProcess/SummaryProcess](https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtSummaryProcess/SummaryProcess)

years (see bar chart), resulting in an imbalance of power where landlords have attorneys who know how to navigate a complicated process and tenants do not.



Tenants facing eviction are overwhelmingly people living in poverty, females, and people of color. Evictions negatively affect people’s physical and mental health. Evictions lead to decreased engagement in school and an increased risk of dropping out. By the age of 15, nationally more than 1 in 4 children living below the federal poverty line experience an eviction.

For all facing eviction the stakes are high because one’s home hangs in the balance, but if you are evicted from public housing:

- You will be barred from applying for Emergency Assistance family shelter for 3 years if eviction was due to non-payment or other reasons;
- You will join over 184,000 people on the waiting list for state public housing and wait many years (in some cases a decade) for replacement public housing; and
- You will have a publicly available eviction record on MassCourts, which is a significant barrier to accessing future housing.

Beyond putting a large strain on families and children, evictions are putting a strain on our municipalities, the healthcare system, and the state’s shelter system. The data in Massachusetts and nationally, however, demonstrates that Access to Counsel results in greater housing stability.

In Massachusetts, under the COVID Eviction Legal Help Project, a temporary program quickly scaled up in response COVID, seven legal services providers handled 4,698 eviction cases over a 14 month period. **Positive outcomes were obtained in 87% of cases receiving extended services:** in 61% of cases the tenancy was preserved and in 26% of cases additional time was received.<sup>3</sup>

<sup>3</sup> Massachusetts Legal Assistance Corporation, Reporting Period: October 16, 2020 - March 31, 2022.

Nationally, similar housing stability outcomes have been found in places where Access to Counsel Programs have been adopted.

- New York City was the first in the country to pass a right to counsel bill in 2017. In 2019, New York City Office of Civil Justice reported that **eviction cases filed in New York City Housing Court fell by over 30% between 2013 and 2019** and since the introduction of a right to counsel program, **default judgments dropped by 34%.**<sup>4</sup> In 2020, NYC reported that **86% of represented tenants were able to remain in their homes.**<sup>5</sup>
- In San Francisco, which has had a right to counsel since 2018, the San Francisco Mayor's Office reported that representation resulted in households in 67% of closed cases staying in their homes. San Francisco saw a **10% filing rate drop in just one year.**<sup>6</sup>

For people who face eviction, legal representation is a life line. It is frightening to receive an eviction notice and daunting to represent yourself in court, especially where the other side has a lawyer and you do not. The eviction process is complicated. Tenants, for the most part, are unaware of available options that they may have to preserve their tenancy or how to negotiate a fair settlement. The process moves quickly with deadlines, which if missed, can result in losing your home, with no place to go. Despite the efforts of judges and court staff, the high number of tenants without lawyers creates a process that can be unfair with tenants signing agreements that are not sustainable and put them at risk of homelessness.

In addition to stabilizing people's housing and preventing homelessness, access to full legal representation would result in significant financial savings to the Commonwealth. In the Boston Bar Association report, **Investing in Fairness, Justice, and Housing Stability** (BBA Report), the BBA estimates that at an annual cost of \$26 million to the Commonwealth, the minimum annual savings from full representation in eviction cases is \$63 million. The BBA report found that for every \$1 spent on full representation in eviction cases, the Commonwealth would save at least \$2.40 on direct costs associated with homelessness, emergency shelter, and foster care.<sup>7</sup>

---

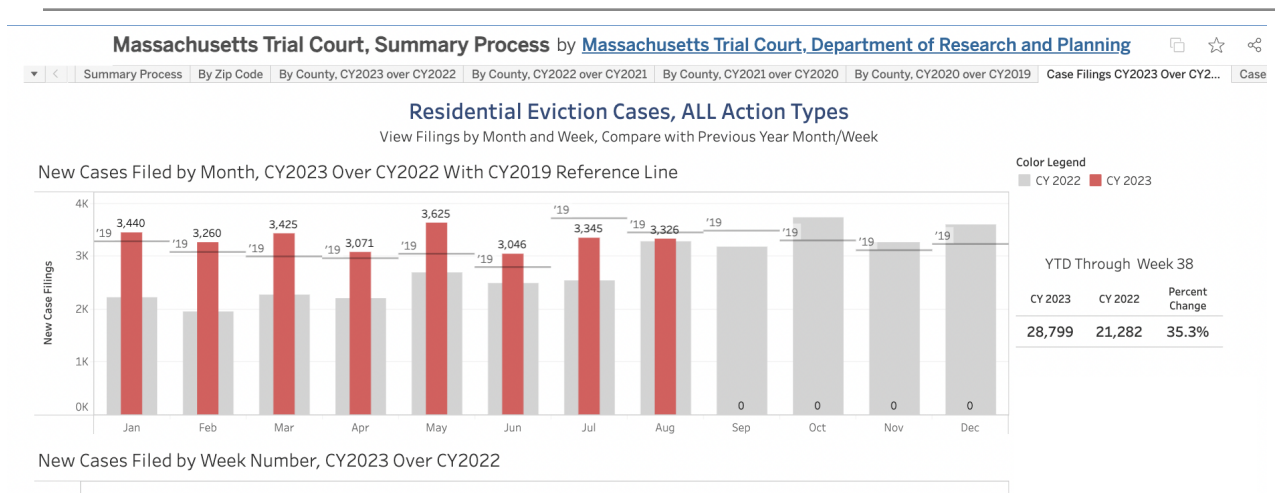
<sup>4</sup> NYC Office of Civil Justice 2019 Annual Report, [www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_Annual\\_Report\\_2019.pdf#page=9](http://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_Annual_Report_2019.pdf#page=9)

<sup>5</sup> NYC Office of Civil Justice 2020 Annual Report, [www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_Annual\\_Report\\_2020.pdf](http://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_Annual_Report_2020.pdf)

<sup>6</sup> Mayor London N. Breed, "Tenant Right to Counsel: Six-Month Implementation Update to Land Use Committee", February 25, 2020 at: [civilrighttocounsel.org/uploaded\\_files/282/San\\_Francisco\\_RTC\\_6\\_month\\_data.pdf](http://civilrighttocounsel.org/uploaded_files/282/San_Francisco_RTC_6_month_data.pdf)

<sup>7</sup> Boston Bar Association "Investing in Fairness, Justice and Housing Stability: Assessing the Benefit of Full Legal Representation in Eviction Cases in Massachusetts," (June 2020), available at [bostonbar.org/docs/default-document-library/rtc-report-for-web-or-email.pdf](http://bostonbar.org/docs/default-document-library/rtc-report-for-web-or-email.pdf).

The state must also grapple with the fact that eviction filings in Massachusetts are going up and have surpassed the number of pre-pandemic eviction filings, as the table below from the Massachusetts Trial Court indicates.



Source: Massachusetts Trial Court

As of today, four states, Washington, Maryland, Connecticut, and Minnesota, Westchester County, and 17 cities across the country have programs to provide tenants with full representation in eviction proceedings.

In Massachusetts, tenants and their advocates, health care providers, large property owners, municipal officials, teachers, and faith-based organizations, are supporting a statewide Access to Counsel Program. We believe it is necessary to pass a statewide Access to Counsel Program as part of a **comprehensive approach** to preventing homelessness and hope that the Housing Committee will take action early in the 2023-24 session to position this bill so that it can move through both bodies in a timely way.

Thank you for your consideration.

Sincerely,

Annette Duke, Housing Attorney

## Access to Counsel Supporters

- Abundant Housing MA
- Action for Boston Community Development
- Action, Inc.
- Advocacy Network to End Family Homelessness
- AIDS Action/Fenway Health
- Alliance of Cambridge Tenants
- Allston/Brighton Community Development Corporation
- Allston Brighton Health Collaborative
- American Civil Liberties Union of Massachusetts
- Amherst Family Health Center
- Amherst Municipal Affordable Housing Trust
- Amherst Town Council ([Resolution](#))
- Arise for Social Justice
- Asian Task Force Against Domestic Violence
- Bassuk Center
- Beacon Communities
- Beacon Residential Management
- Berkshire County Regional Housing Authority
- BEST Hospitality Training
- Beth Israel Lahey Health
- Black Economic Justice Institute
- Black Teachers Matter
- Boston Area Rape Crisis Center
- Boston Bar Association
- Boston Health Care for the Homeless Program
- Boston Housing Authority
- Boston Medical Center
- Boston Public Health Commission
- Boston Teachers Union
- Boston Tenant Coalition
- Brockton Neighborhood Health Center
- Brockton Interfaith Community
- Cambridge Health Alliance
- Cambridge Residents Alliance
- Casa Myrna
- Cathedral Church of St. Paul
- Catholic Charities Worcester County
- Center for Human Development
- Central Massachusetts Housing Alliance
- Charter Street Tenant Association
- Chelsea Police Department
- Chelsea Public School Committee Chair, Kelly Garcia
- Children Advocacy Center of Suffolk County
- Children's HealthWatch
- Children's Services of Roxbury
- Chinese Progressive Association
- Citizens' Housing and Planning Association
- City Life/Vida Urbana
- City Mission Boston
- City of Boston
- City of Boston Veterans' Services
- City of Boston ([City Council Resolution](#))
- City of Cambridge ([City Council Resolution](#))
- City Northampton ([City Council Resolution](#))
- City of Salem ([City Council Resolution](#))
- City of Springfield ([City Council Resolution](#))
- City Manager of Cambridge, Louis A. DePasquale
- Coalition for Social Justice
- Codman Square Neighborhood Development Corporation
- Community Action Agency of Somerville
- Community Action Pioneer Valley
- Community Care Cooperative
- Community Health Network for North Central Mass
- Coalition for a Healthy Greater Worcester
- Cooley Dickinson Health Care, Northampton
- Conference of Boston Teaching Hospitals
- Craig's Doors - A Home Association
- Dana-Farber Cancer Institute
- De Novo Center for Justice and Healing
- Disability Policy Consortium
- DOVE (Domestic Violence Ended)
- East Boston Social Centers
- Easthampton Affordable and Fair Housing Partnership
- Economic Mobility Pathways (EMPath)
- Edward M. Kennedy Community Health Center
- Eliot Community Human Services
- Elizabeth Freeman Center
- Episcopal Diocese of Massachusetts
- Fall River Confronting Discrimination Committee
- Fall River Housing Joint Tenant Council
- Family Promise Metrowest
- FamilyAid Boston
- Father Bill's & MainSpring
- Fenway Community Development Corporation
- Food Bank of Western Massachusetts
- Framingham Public Health Department
- Greater Boston Labor Council



- Greater Boston Legal Services
- Greater Framingham Community Church
- Greater Lawrence Community Action Council
- Grow A Strong Family
- HarborCOV: Communities Overcoming Violence
- Harvard Legal Aid Bureau
- Heading Home
- Health Care For All
- Health Resources in Action
- Heisler, Feldman & McCormick
- Holland & Knight LLP
- HomeStart
- Homes for Families
- Horizons for Homeless Children
- Housing Families
- Immigrant Service Providers Group/Health
- Inquilinos Boricuas en Accion
- Institute for Community Health
- Inter-Church Council of Greater New Bedford
- Jane Doe, Inc.
- Jewish Alliance for Law and Social Action
- Jewish Community Relations Council of Greater Boston
- Jewish Family & Children's Service
- JP Progressives
- Justice Center of Southeast Massachusetts
- La Collaborativa
- La Comunidad
- Latinos Unidos En Massachusetts
- Law Office of Laura M. Unflat
- Lawyers Clearinghouse
- Lawyers for Civil Rights in Boston
- Lawrence Community Works
- League of Women Voters Massachusetts
- Legal Services Center of Harvard Law School
- LEO, Inc.
- Lexington Housing Partnership Board
- LivableStreets
- Local Initiatives Support Corporation - Boston
- Lynn Community Health Center
- Lynn Housing Authority & Neighborhood Development
- Lynn United for Change
- Maloney Properties, Inc.
- Mandela Residents Cooperative Association, Inc.
- Mass Alliance of HUD Tenants
- Mass Alliance of Portuguese Speakers
- Mass Appleseed Center for Law and Justice
- Mass Association for Mental Health
- Mass Association of Community Development Corporation
- Mass Association of Community Health Workers
- Mass Bar Association
- Mass Catholic Conference
- Mass Coalition for the Homeless
- Mass Communities Action Network (MCAN)
- Mass Fair Housing Center
- Mass General Brigham
- Mass General Hospital Center for Community Health Improvement
- Mass Housing and Shelter Alliance, Inc.
- Mass Law Reform Institute
- Mass League of Community Health Centers
- Mass LGBTQ Bar Association
- Mass Political Cooperative
- Mass Public Health Association
- Mass Senior Action Council
- Mass Smart Growth Alliance
- Mass Teachers Association
- Mass Union of Public Housing Tenants
- Mayor Gary Christenson, Malden
- Mayor Katjana Ballantyne, Somerville
- Mayor Carlo DeMaria, Everett
- Mayor Paul Heroux, Attleboro
- Mayor Jared Nicholson, Lynn
- Mayor Joseph M. Petty, Worcester
- Mayor Dan Rivera, Lawrence
- Mayor Sumbul Siddiqui, Cambridge
- Mayor Robert F. Sullivan, Brockton
- Mayor Linda M. Tyer, Pittsfield
- Medical-Legal Partnership|Boston
- Mental Health Legal Advisors Committee
- Metro Housing|Boston
- Metropolitan Area Planning Council
- Metropolitan Mayors Coalition
- MetroWest Legal Services
- Middlesex Community College
- NAACP New Bedford Branch
- National Association of Social Workers, Mass. Chapter
- National Lawyers Guild, Mass. Chapter
- Neighborhood Assistance Corporation of America
- NeighborWorks Housing Solutions
- New Bedford Community Health Center
- Northampton Human Rights Commission
- Northampton Survival Center
- Northeast Justice Center
- NuLawLabs at Northeastern University School of Law
- Nuestra Comunidad Development Corporation
- One Family
- Open Sky, Worcester

- Our Father's House
- Pioneer Valley Workers Center
- Preservation of Affordable Housing, Inc.
- Progressive Democrats of Massachusetts
- Progressive Mass
- Project Hope
- Public Health Institute of Western Massachusetts
- Public Interest Law Foundation at Boston College Law School
- Regional Housing Network of Massachusetts
- Residents Council for the Senior & Disabled Tenants of Quincy Housing Authority
- Right to the City Boston
- Rosie's Place
- Roxbury Community College
- Samaritans Southcoast
- Senior Residents Council
- ServiceNet
- Solidarity Lowell
- Somerville Dept. of Veterans' Services Director, Ted Louis Jacques
- Somerville Homeless Coalition
- Society of St. Vincent de Paul Boston
- Solidarity Lowell
- South Middlesex Opportunity Council, Inc.
- Springfield Dementia Friendly Coalition
- Springfield No One Leaves
- Springfield Partners for Community Action, Inc.
- St. Francis House
- Stop Bullying Coalition
- Temple Sinai of Sharon
- Tenant Advocacy Project at Harvard Law School
- The Neighborhood Developers
- The Second Step
- Three Pyramids
- Town Administrator of Brookline, Mel Kleckner
- Town Manager of Amherst, Paul Bockelman
- Town Manager of Arlington, Sandy Pooler
- Town Manager of Danvers, Steve Bartha
- Town Manager of Randolph, Brian Howard
- Town Manager of Winthrop, Austin Faison
- Trinity Financial
- Urban Edge
- UNITE HERE Local 26
- United Food and Commercial Union Local 1445
- United Way of Massachusetts Bay and Merrimack Valley
- University of Massachusetts School of Law - Dartmouth
- Veterans Legal Services
- Volunteers of America
- Way Finders
- Western Massachusetts Network to End Homelessness
- WATCH Community Development Corporation
- WinnCompanies
- Womanshelter/ Compañeras
- Women's Bar Association
- Women's Fund of Western Massachusetts
- Worcester County Food Bank
- Y2Y Network
- YWCA Cambridge
- 123 Up And Adam, Inc.



Danna E. Mauch, PhD

President and CEO

Ambassador (ret.) Barry B. White

Chairperson of MAMH Board of Directors

---

September 27, 2023

The Honorable Lydia Edwards  
Chair, Joint Committee on Housing  
State House  
Boston, MA 02133

The Honorable James Arciero  
Chair, Joint Committee on Housing  
State House  
Boston, MA 02133

Submitted via email to [luke.oroark@mahouse.gov](mailto:luke.oroark@mahouse.gov) and [christianna.golden@masenate.gov](mailto:christianna.golden@masenate.gov)

Dear Chair Edwards, Chair Arciero, and Members of the Joint Committee:

***Re: In support of S.864, An Act promoting housing stability and homelessness prevention in Massachusetts***

On behalf of the Massachusetts Association for Mental Health (MAMH), I write in support of S. 864, *An Act promoting housing stability and homelessness prevention in Massachusetts*.

Formed over a century ago, MAMH is dedicated to promoting mental health and well-being, while preventing behavioral health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with behavioral health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies.

The Massachusetts Association for Mental Health (MAMH) recognizes that safe, affordable housing is critical to mental health and well-being. Stable housing is a means both to promote mental health and to address behavioral health challenges. Legal help in eviction cases is a powerful tool to improve housing stability and prevent homelessness. Access to counsel in eviction cases helps to ensure that those with mental health challenges facing evictions are treated with dignity and respect and can navigate a complicated system. Legal counsel can also

serve as a bridge for those with mental illness to access supportive housing and other resources, including the Tenancy Preservation Program.

A right to counsel is a means to address existing disparities experienced by people with mental health needs. Data demonstrates that people with mental health issues are at increased risk of eviction and are often less likely to have the tools to fight eviction. A study conducted by the University of Toledo last year documented how evictions pose particular risk for people with mental health challenges and often the cause for eviction is related to the mental health disorder.<sup>1</sup>

The problem is exacerbated by evidence showing that eviction (or even just the threat of eviction) worsens mental health outcomes. A recent survey of 47 studies found that individuals under threat of eviction experience negative mental health outcomes including depression, anxiety, psychological distress, and suicide.<sup>2</sup> Being physically removed from one's home is related to higher risk of depression and anxiety symptoms or psychological distress, higher prevalence of depression and anxiety attacks, and an increase in suicide rates.<sup>3</sup>

Housing insecurity can have a life-long deleterious mental health effect, particularly on children. A 2019 literature search study of youth (ages 5–18) found that homelessness and/or housing instability were associated with multiple negative physical, mental, and behavioral health outcomes.<sup>4</sup> This study further found that children experiencing homelessness required more inpatient mental health services than their housed peers; homeless youth demonstrated greater incidence of mental illness and worsening of mental illness symptoms with increased length of homelessness; and the associations between mental health, substance abuse, and victimization were particularly strong.<sup>5</sup>

Children in families that experience eviction are more likely to be placed in out-of-home care, which is associated with poor short- and long-term mental and physical health outcomes.<sup>6</sup> The Boston Bar Association study assessing the benefits of legal representation in eviction proceedings found that children in about 20% of families experiencing homelessness are placed

---

<sup>1</sup> Christine Billau, "Study Reveals Impact of Evictions on People with Mental Health Disorders," News, UToday, Arts and Letters, February 19, 2021, available at [https://news.utoledo.edu/index.php/02\\_19\\_2021/study-reveals-impact-of-evictions-on-people-with-mental-health-disorders](https://news.utoledo.edu/index.php/02_19_2021/study-reveals-impact-of-evictions-on-people-with-mental-health-disorders).

<sup>2</sup> Hugo Vasquez-Vera, Laia Palencia, Ingrid Magna, Carlos Mena, Jaime Neira, Carme Borrell, "The threat of home eviction and its effects on health through the equity lens: A systematic review," *Social Science & Medicine* 175 (2017), 199-208, available at <https://sci-hub.se/10.1016/j.socscimed.2017.01.010>.

<sup>3</sup> *Id.*

<sup>4</sup> Laura E. Gultekin, PhD, RN, Barbara L. Brush, PhD, RN, FAAN, Emily Ginier, MLIS, et al, "Health Risks and Outcomes of Homelessness in School-Age Children and Youth: A Scoping Review of the Literature," *The Journal of School Nursing*, September 15, 2019, available at <https://journals.sagepub.com/doi/full/10.1177/1059840519875182>.

<sup>5</sup> *Id.*

<sup>6</sup> Heidi Schultheis and Caitlin Rooney, "A Right to Counsel is a Right to a Fighting Chance," October 2, 2019, available at [://www.americanprogress.org/article/right-counsel-right-fighting-chance/](https://www.americanprogress.org/article/right-counsel-right-fighting-chance/)

in foster care.<sup>7</sup> Likewise, a study among low- and moderate-income homeowners threatened with foreclosure found that this situation can generate sufficient stress to break up families, straining marriages to the point of divorce, and reducing homeowners' earning capacities.<sup>8</sup>

Conversely, legal representation helps keep families intact, which benefits the mental health of all family members. For mental health consumers, stable housing is important in pursuing treatment goals.<sup>9</sup> Legal representation of low-income tenants and owner occupants is a critical tool to help families stay together, stabilize their housing and mental health, and get their feet back on the ground.

Finally, people with mental illness who face hardships due to other inequities are at greatest risk of housing instability. One study found that people already suffering inequities based on race, gender, age, and ethnicity who are also facing mental health issues are more at risk of housing instability through eviction and foreclosure.<sup>10</sup>

MAMH recognizes the difference legal assistance makes in helping to avoid the deleterious effects of eviction and keep vulnerable members of our community safe and stably housed. We urge you to report S.864 out of committee favorably.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Danna Mauch".

Danna Mauch, PhD  
President and CEO

c: Sen. Sal DiDomenico

---

<sup>7</sup> Boston Bar Association, Investing in Fairness, Justice and Housing Stability: Assessing the Benefits of Full Legal Representation in Eviction Cases in Massachusetts (2020),

<https://bostonbar.org/docs/default-document-library/rtc-report-for-web-or-email.pdf>

at 17.

<sup>8</sup> Vasquez-Vera, *supra* note 2.

<sup>9</sup> See Billau, *supra* note 1.

<sup>10</sup> See Vasquez-Vera, *supra* note 2.

**Testimony submitted to the Joint Committee on Housing  
In support of S.864 An Act Promoting Access to Counsel and  
Housing Stability in Massachusetts**

By Daniel Daley, Senior Housing Attorney  
MetroWest Legal Services, Framingham, MA  
September 27, 2023

Good afternoon. My name is Daniel Daley and I am a senior housing attorney at MetroWest Legal Services in Framingham. Thank you for the opportunity to testify in support of the access to counsel bill (Senate Bill 864) to protect both tenants with low incomes and small landlords.

I want to tell you about an actual case that came to me which shows how unfair outcomes can be in evictions when tenants with low incomes don't have an attorney to represent them. I wish I could say that this case is unique, but unfortunately, is it not. These types of cases, where evictions are preventable, can happen on a regular basis in every housing court.

The housing judges that I mostly see do a great job in trying to protect all the litigants that come before them. However, judges are not allowed to give legal advice to an unrepresented litigant. The same is true for housing specialists who must remain neutral during a mediation. As a result, in cases where tenants with low incomes are not represented by an attorney, **they are truly alone.**

The real imbalance has to do with the fact that nearly every landlord has an attorney and nearly every tenant does not. According to housing court statistics, landlords are represented at a very high rate, in excess of 90%. **For the cases that my office prioritizes, public and subsidized housing cases, 100% of the landlords have an attorney.** The attorneys they hire are all experts in landlord/tenant law, as housing is a specialty field. **By contrast, as much as 96% of tenants go unrepresented.** Some programs are designed to help close this obvious imbalance, but they're not close to permanent or comprehensive solutions like the access to counsel program would be.

My case is an example of how bad things can get if this imbalance is not addressed. I met my clients after they received a "48-hour" execution notice to leave their home. It was urgent. The execution, which is the final order from a judge to evict and force someone to leave their apartment, meant that the moving truck would be arriving soon. The reason for the eviction started several months earlier. My clients, a married couple, had been living in public housing with their 7-year-old daughter for five years. Family public housing units are very

hard to get with a current waiting list of 184,000 households and a wait that can take many years to reach the top.

Late last year, my clients' only car broke down and they could not afford to fix it. Without the family car, the husband lost his job because he could no longer travel to and from work. **Practically every family in this situation is only a major car repair from suffering the same fate.** Consequently, my clients fell behind on their rent, which was \$1,150 per month.

The husband provided the housing authority with a letter of separation from his employer to request a lower rent change. The housing authority should have adjusted his rent. However, the housing authority told him that it was too late as they had already decided to evict and contacted their attorney. My clients were scared with no idea on how to remedy this crisis.

By the time the eviction case reached the court, the rent balance was several thousand dollars. My clients went to the court by themselves hoping to come up with some way to stay in their home as they had no place to go and absolutely no way to afford a private apartment. They were terrified at the prospect of being evicted with a young child.

At court, the landlord's attorney took over. He gave my clients little hope and fewer options. He told the couple that they had to leave and that the judge would evict them with no extra time. My clients hadn't filed an Answer form, which would have told their side of the case, because they didn't know that they could or even how to do it or what to say. With the grim options presented to them by the housing authority's attorney, my clients were overflowing with fear. The attorney offered them 60 days to find a new place to live if they agreed to sign a move out agreement on the spot, and my clients took it. They took it because, in their minds, they didn't have a choice.

The agreement was terrible. My clients didn't understand how bad the agreement was. The agreement meant that they would lose their public housing unit and never get a public housing unit again (or not for a very long time). They had a money judgment that would follow them for 20 years if not paid (including a very high statutory interest). The money judgment would go on their credit report and prevent them from finding another apartment to rent (even if they could afford it). Perhaps most devastating, my clients didn't understand that because they lived in public housing, by signing the agreement, that for three years they would not qualify for any state-aided emergency shelter, the safety net for homeless families. The agreement was worse than they even imagined.

The sixty days went by in a flash, they had not found any viable housing option, and the housing authority had a sheriff serve them with the 48-hour notice. More panic set in for the family. Fortunately, at this 11<sup>th</sup> hour, they found their way to legal services, to an attorney.

My review of the case revealed multiple defenses to the eviction, all of which an unrepresented tenant would have little idea about. For example, the housing authority wrongfully refused to recertify their rent after the husband lost his job at the end of last year. They had another defense that would have allowed them to cure any rent balance with rental assistance. They also had a very strong procedural defense because the housing authority used the wrong type of notice to terminate the tenancy. My clients were entitled to a notice that contained information about rental assistance, but they didn't get one. This alone was a fatal defect that would require the court to dismiss the case.

I filed emergency motions with the court to cancel the 48-hour move-out notice and to dismiss the case based on the defective paperwork. Understanding the potential defenses, the court cancelled the move immediately and this brought the housing authority and their lawyer back to the negotiation table. However, this time the housing authority agreed to recertify my clients' rent retroactively to when he lost his job, cooperate fully with a rental assistance application, and re-instate their tenancy so that they could keep their public housing apartment.

In this case having an attorney leveled the playing field so that it wasn't so lopsided. It resulted in a fair outcome, one that would have happened initially with an access to counsel program. This story occurred very recently, but over my years practicing, I've seen many more just like it. Earlier this year my office put together a briefing booklet with other cases where having legal representation made a difference, [Investing in Justice and Housing Stability Through Access to Counsel](#).

There are few things more devastating for a family than an eviction. This is especially true when you consider the impact on children and family members with physical or mental health impairments. It is for these reasons that I urge you to report favorably S. 864.

Thank you for your time and consideration.





## GEORGETOWN LAW

**Nicole Summers**

Associate Professor of Law

September 26, 2023

Senate Chair, Senator Lydia Edwards  
Joint Committee on Housing

House Chair, Representative James Arciero  
Joint Committee on Housing

### **In Support of S. 864, An Act promoting access to counsel and housing stability in Massachusetts**

I submit this testimony in support of S. 864, An Act promoting access to counsel and housing stability in Massachusetts. I am currently an associate professor of law at Georgetown University Law Center, where I research and write on issues related to eviction, housing affordability, and fair housing. Prior to joining the Georgetown Law faculty, I represented tenants facing eviction in Massachusetts for many years, including as a staff attorney at Northeast Justice Center and as a Clinical Instructor at the Harvard Legal Aid Bureau and the Legal Services Center of Harvard Law School.

I submit this testimony primarily in my capacity as a researcher. My goal is to communicate the findings of own empirical research on eviction cases in Massachusetts showing that when tenants face eviction without counsel, their rights are undermined, and rules and procedures enacted by the Legislature go unfollowed.

My recently published Stanford Law Review article, [\*Civil Probation\*](#), is based on an empirical study I conducted of eviction cases in the Eastern Housing Court of Massachusetts. For this study I retrieved and coded nearly 1,000 randomly selected eviction cases filed in the Eastern Housing Court between 2013 and 2017. Nearly all the tenants in these cases – 97% – were unrepresented by counsel. My particular focus was on the terms of settlements, because while most of us know that eviction cases settle, we often do not know what landlords and tenants are settling *for*.

What I found is that about two-thirds of settlements in the Eastern Housing Court take the form of what I call “civil probation.” Under the terms of these settlements, the tenant’s right to remain in their home, and ultimately to have their tenancy reinstated, is made conditional on their compliance with certain conditions for a certain period of time. Conditions often include paying rental arrears, paying ongoing rent on time, or adhering to behavior rules. While this arrangement may sound advantageous – after all, the tenant is given another opportunity to retain their home – it in fact creates a smoother, surer path to eviction for any tenant transgression. This is because once a tenant is on civil probation, violation of any enumerated condition is adjudicated within an alternative legal regime established by the agreement. This legal regime affords far fewer procedural and substantive protections to tenants than what is afforded under Massachusetts statutory law and the Uniform Summary Process Rules. For example, a tenant who allegedly fails to meet a payment condition has no right to claim a defense under the warranty of habitability, to request discovery on the landlord’s allegation, or to a statutorily-prescribed notice period before facing eviction. As a

result, evictions are swifter and easier for landlords to obtain than they ever would be under the rules and statutes the Legislature enacted.

The alternative legal regime established by civil probation is not a hypothetical regime. 1 in 3 tenants on civil probation will eventually face eviction based on an alleged violation of the probationary conditions, via a motion to issue execution. My data show that judges grant **96%** of such motions that come before them. The data also show that judges issue 4 times as many eviction orders based on violations of civil probation as they issue based on the underlying merits of eviction complaints: during my study period, 81% of eviction orders handed down by judges were for violations of civil probation, and only 19% were for proven allegations listed in the summons and complaint. In other words, the alternative set of rules established by civil probation agreements, rather than the rules established by the Legislature, have now become the *typical* rules that judges apply when they decide eviction cases.

As I well know from my years in practice, and as you have likely heard from countless legal aid attorneys and advocates, many of the tenants who sign civil probation agreements have viable defenses that should, in theory, allow them to permanently retain their homes. They have no reason to be put under an alternative regime that makes them significantly more vulnerable to eviction. Indeed, the Legislature has enacted numerous statutes that protect tenants from eviction when their landlords fail to follow the appropriate procedures, neglect repairs, or violate the consumer protection laws, among other defenses. However, my research shows that these laws are virtually meaningless when tenants do not have access to counsel. Unrepresented tenants do not leverage the law in their favor, invoke defenses, or negotiate favorable agreements. Instead, likely aware that they have no realistic alternative to fight for a better outcome on their own, they enter into landlord-crafted settlements that wipe away their rights and render the formal legal regime all but meaningless.

I hope that the Housing Committee will take action early in the 2023-24 session to report **S. 864** out favorably.

Thank you for your consideration.

Sincerely,

Nicole Summers  
Associate Professor of Law  
Georgetown University Law Center

# Access to Counsel Coalition in Massachusetts

---

February 8, 2023

Her Excellency Maura Healey  
Governor of the Commonwealth of Massachusetts  
State House Room 280  
Boston, Massachusetts 02133

RE: Access to Counsel Program for Evictions  
Dedicated Line Item FY24 Budget Request of \$7 million

Dear Governor Healey:

On behalf of the Massachusetts Law Reform Institute and the Access to Counsel Coalition, congratulations on your election. We are excited to work with you and your administration as we seek to expand access to affordable and safe housing for all.

At this time, we write to respectfully urge you to include **\$7 million in your FY24 House 1 budget to start to phase in an Access to Counsel Program** for low-income tenants and owner occupants in eviction proceedings. The need is urgent.

During the state COVID eviction moratorium there was a temporary reduction in the number of eviction cases filed in Massachusetts. But in October, November, and December of 2022, eviction filings in Massachusetts have now surpassed the number of pre-pandemic eviction filings. Between 2021 and 2022, the number of *no-fault* evictions, where a tenant is facing eviction not for anything they did wrong, spiked from 4,777 to 7,520 cases - a **57% increase**.

Data demonstrates that access to counsel results in greater housing stability and saves money. Recently, under the COVID Eviction Legal Help Project, a temporary program created in October 2020 in response to the COVID-19 pandemic, seven legal services providers handled 4,698 cases statewide. **Positive outcomes were obtained in 92% of cases receiving extended services:** in 66% of the cases the tenancy was preserved and in 26% of the cases additional time was received. The Boston Bar Association further reported that through legal intervention the state can save an estimated \$41 million in reduced emergency shelter costs.

Tenants facing eviction are overwhelmingly individuals living in poverty, females, and people of color. Evictions have far-reaching consequences beyond housing insecurity, and negatively affect people's physical and mental health. By the age of 15, more than 1 in 4 children living below the federal poverty line experience an eviction. Evictions lead to decreased engagement in school and an increased risk of dropping out.

When people come to court they are often scared and the stakes are high. The eviction process moves quickly. And despite the efforts of judges and court staff, the high number of tenants without lawyers creates a process that can be unfair and leave tenants signing agreements that are not sustainable and put them at risk of homelessness.

While 86% of landlords are represented in Housing Court, **only 11.5% of tenants are represented**. Beyond putting a large strain on families and children, evictions are putting a strain on our municipalities, the healthcare system, and the state's shelter system. The COVID-19 pandemic has continued to have rippling economic impacts throughout the Commonwealth.

In Massachusetts, over 230 organizations, including health care providers, large property owners, municipal officials, teachers, and faith-based organizations, are supporting a statewide access to counsel program. Three states and 15 cities have passed programs to provide tenants with full representation in eviction proceedings. In 2021:

- Washington State Governor Jay Inslee signed into law the first statewide right to counsel program in the country.
- Maryland became the second state to pass an Access to Counsel Program and passed legislation requiring the Comptroller to distribute \$14 million from abandoned property funds to an Access to Counsel in Evictions Special Fund.
- Our neighboring state, Connecticut, became the third state and Connecticut Governor Ted Lamont allocated \$20 million of ARPA funds over 2 years to launch a program.

[SD1082](#), *An Act promoting access to counsel and housing stability in Massachusetts* filed by Senator Sal DiDomenico, and [HD3657](#) filed by Representative Dave Rogers and Representative Michael Day, in Section 2, provide that a statewide Access to Counsel program would be funded by the general court and administered by the Massachusetts Legal Assistance Corporation through a specifically designated separate line item in the Judiciary budget. It is essential that Access to Counsel funding be provided in addition to MLAC's FY24 budget request of \$49 million to fund civil legal aid (Massachusetts Legal Assistance Corporation line item 0321-1600).

We believe it is urgent to pass a statewide Access to Counsel program as part of a comprehensive approach to preventing homelessness and providing housing for all. **As you consider your FY24 budget, we hope that you will include \$7 million for an Access to Counsel Program.**

Thank you for your leadership and for making housing a priority of your administration.

Sincerely,



Annette Duke and Georgia Katsoulomitis  
Massachusetts Law Reform Institute  
With the Access to Counsel Coalition Advisory Committee

Cc: Lieutenant Governor Kim Driscoll  
Secretary Matt Gorzkowicz, Executive Office of Administration and Finance  
Kate Cook, Chief of Staff, Office of Governor Maura Healey  
Kristian Hoysradt, Deputy Chief of Staff to the Lt. Governor  
Alicia Rebello-Pradas, Deputy Chief of Staff for Legislative Affairs  
Cecilia Ugarte Baldwin, Deputy Chief of Staff for Policy & Cabinet Affairs  
Sarah Sabshon, Associate Chief of Staff for Policy & Cabinet Affairs  
Bran Shim, Budget Director, Office of Administration and Finance  
Senator Sal DiDomenico  
Representative David Rogers  
Representative Michael Day

## **Access to Counsel Advisory Committee**

### **La Colaborativa**

Gladys Vega, Executive Director  
Norieliz DeJesus, Policy & Organizing Director

### **City of Boston**

Sheila Dillon, Chief of Housing  
Danielle Johnson, Office of Housing Stability  
Diego Huezco, Deputy Director of State Relations

### **Massachusetts Union of Public Housing Tenants**

Renee Spencer, Assistant Treasurer

### **Greater Boston Legal Services**

Zoe Cronin, Managing, Housing Unit Attorney

### **Citizens Housing and Planning Association**

Eric Shupin, Director of Public Policy  
Abhidnya Kurve, Senior Policy Advocate

### **Western Massachusetts Network to End Homelessness**

Pamela Schwartz, Director

### **Metro Housing | Boston**

Chris Norris, Executive Director  
Steven Farrell, Director of Communications, Development and Policy

### **New England Law-Boston**

Russell Engler, Director of Clinical Programs

### **Jewish Alliance for Law and Social Action**

Cindy Rowe, Executive Director  
David Albright, Legislative Director  
Julia Schlozman, Staff Attorney

### **City of Somerville**

Ellen Shachter, Director Office of Housing Stability  
Susan Chimene, Co-Deputy Director Office of Housing Stability

### **Housing Families in Malden**

Laura Rosi, CEO  
Jayna Stafford, Director, Homelessness Prevention and Legal Services

### **Massachusetts Coalition for the Homeless**

Kelly Turley, Associate Director

### **HomeStart**

Vincent Wisniewski, Program Manager

### **Conn Kavanaugh Rosenthal Peisch & Ford LLP**

Katie Forde, Paralegal

## Access to Counsel Supporters

A broad coalition of municipal leaders, housing advocates, community organizations, health care providers, faith-based organizations, and large property owners have joined together to support a statewide access to counsel program in Massachusetts for low income tenants and owner occupants in eviction proceedings.

- Abundant Housing MA
- Action for Boston Community Development
- Action, Inc.
- Advocacy Network to End Family Homelessness
- AIDS Action/Fenway Health
- Alliance of Cambridge Tenants
- Allston/Brighton Community Devel Corp,
- Allston Brighton Health Collaborative
- American Civil Liberties Union of Massachusetts
- Amherst Family Health Center
- Amherst Municipal Affordable Housing Trust
- Amherst Town Council (Resolution)
- Arise for Social Justice
- Asian Task Force Against Domestic Violence
- Bassuk Center
- Beacon Communities
- Beacon Residential Management
- Berkshire County Regional Housing Authority
- BEST Hospitality Training
- Beth Israel Lahey Health
- Black Economic Justice Institute
- Black Teachers Matter
- Boston Area Rape Crisis Center
- Boston Bar Association
- Boston Health Care for the Homeless Program
- Boston Housing Authority
- Boston Medical Center
- Boston Public Health Commission
- Boston Teachers Union
- Boston Tenant Coalition
- Brockton Neighborhood Health Center
- Brockton Interfaith Community
- Cambridge Health Alliance
- Cambridge Residents Alliance
- Casa Myrna
- Cathedral Church of St. Paul
- Catholic Charities Worcester County
- Center for Human Development
- Central Massachusetts Housing Alliance
- Charter Street Tenant Association
- Chelsea Police Department
- Chelsea Public School Cmt Chair, Kelly Garcia
- Children Advocacy Center of Suffolk County
- Children's HealthWatch
- Children's Services of Roxbury
- Chinese Progressive Association
- Citizens' Housing and Planning Association
- City Life/Vida Urbana
- City Mission Boston
- City of Boston
- City of Boston Veterans' Services
- City of Boston (City Council Resolution)
- City of Cambridge (City Council Resolution)
- City Northampton (City Council Resolution)
- City of Springfield (City Council Resolution)
- City Manager of Cambridge, Louis DePasquale
- City Manager of Chelsea (formerly), Tom G. Ambrosino
- Coalition for Social Justice
- Codman Square Neighborhood Development Corporation
- Community Action Agency of Somerville
- Community Action Pioneer Valley
- Community Care Cooperative
- Community Health Network for North Central Mass
- Coalition for a Healthy Greater Worcester
- Cooley Dickinson Health Care, Northampton
- Conference of Boston Teaching Hospitals
- Craig's Doors - A Home Association
- Dana-Farber Cancer Institute
- De Novo Center for Justice and Healing
- Disability Policy Consortium
- DOVE (Domestic Violence Ended)
- East Boston Social Centers
- Easthampton Affordable and Fair Housing Partnership
- Edward Kennedy Community Health Center
- Eliot Community Human Services
- Elizabeth Freeman Center
- Episcopal Diocese of Massachusetts
- Fall River Confronting Discrimination Committee
- Fall River Housing Joint Tenant Council
- Family Promise Metrowest
- FamilyAid Boston
- Father Bill's & MainSpring
- Fenway Community Development Corp
- Food Bank of Western Massachusetts
- Framingham Public Health Department

- Greater Boston Labor Council
- Greater Boston Legal Services
- Greater Lawrence Community Action Council
- Grow A Strong Family
- HarborCOV: Communities Overcoming Violence
- Harvard Legal Aid Bureau
- Heading Home
- Health Care For All
- Health Resources in Action
- Heisler, Feldman & McCormick
- Holland & Knight LLP
- HomeStart
- Homes for Families
- Horizons for Homeless Children
- Housing Families
- Immigrant Service Providers Group/Health
- Inquilinos Boricuas en Accion
- Institute for Community Health
- Inter-Church Council of Greater New Bedford
- Jane Doe, Inc.
- Jewish Alliance for Law and Social Action
- Jewish Community Relations Council of Greater Boston
- Jewish Family & Children's Service
- JP Progressives
- Justice Center of Southeast Massachusetts
- La Collaborativa
- La Comunidad
- Latinos Unidos En Massachusetts
- Law Office of Laura M. Unflat
- Lawyers Clearinghouse
- Lawyers for Civil Rights in Boston
- Lawrence Community Works
- League of Women Voters Massachusetts
- Legal Services Center of Harvard Law School
- LEO, Inc.
- Lexington Housing Partnership Board
- LivableStreets
- Local Initiatives Support Corporation - Boston
- Lynn Community Health Center
- Lynn Housing Authority & Neighborhood Development
- Lynn United for Change
- Maloney Properties, Inc.
- Mandela Residents Cooperative Association
- Mass Alliance of HUD Tenants
- Mass Alliance of Portuguese Speakers
- Mass Appleseed Center for Law and Justice
- Mass Association for Mental Health
- Mass Association of Community Development Corporation
- Mass Association of Community Health Workers
- Mass Bar Association
- Mass Catholic Conference
- Mass Coalition for the Homeless
- Mass Communities Action Network (MCAN)
- Mass Fair Housing Center
- Mass General Brigham
- Mass General Hospital Center for Community Health Improvement
- Mass Housing and Shelter Alliance, Inc.
- Mass Law Reform Institute
- Mass League of Community Health Centers
- Mass LGBTQ Bar Association
- Mass Political Cooperative
- Mass Public Health Association
- Mass Senior Action Council
- Mass Smart Growth Alliance
- Mass Teachers Association
- Mass Union of Public Housing Tenants
- Mayor Gary Christenson, Malden
- Mayor Katjana Ballantyne, Somerville
- Mayor Carlo DeMaria, Everett
- Mayor Kim Driscoll, Salem
- Mayor Paul Heroux, Attleboro
- Mayor Jared Nicholson, Lynn
- Mayor Joseph M. Petty, Worcester
- Mayor Dan Rivera, Lawrence
- Mayor Sumbul Siddiqui, Cambridge
- Mayor Robert F. Sullivan, Brockton
- Mayor Linda M. Tyer, Pittsfield
- Medical-Legal Partnership|Boston
- Mental Health Legal Advisors Committee
- Metro Housing|Boston
- Metropolitan Area Planning Council
- Metropolitan Mayors Coalition
- MetroWest Legal Services
- Middlesex Community College
- NAACP New Bedford Branch
- National Association of Social Workers, Mass. Chapter
- National Lawyers Guild, Mass. Chapter
- Neighborhood Assistance Corporation of America

- NeighborWorks Housing Solutions
- New Bedford Community Health Center
- Northampton Human Rights Commission
- Northampton Survival Center
- Northeast Justice Center
- NuLawLabs at Northeastern University School of Law
- Nuestra Comunidad Development Corporation
- One Family
- Open Sky, Worcester
- Our Father's House
- Pioneer Valley Workers Center
- Preservation of Affordable Housing, Inc.
- Progressive Democrats of Massachusetts
- Progressive Mass
- Project Hope
- Public Health Institute of Western Massachusetts
- Public Interest Law Foundation at Boston College Law School
- Regional Housing Network of Massachusetts
- Residents Council for the Senior & Disabled Tenants of Quincy Housing Authority
- Right to the City Boston
- Rosie's Place
- Roxbury Community College
- Samaritans Southcoast
- Senior Residents Council
- ServiceNet
- Solidarity Lowell
- Somerville Dept. of Veterans' Services Director, Ted Louis Jacques
- Somerville Homeless Coalition
- Society of St. Vincent de Paul Boston
- Solidarity Lowell
- South Middlesex Opportunity Council, Inc.
- Springfield Dementia Friendly Coalition
- Springfield No One Leaves
- Springfield Partners for Community Action
- St. Francis House
- Stop Bullying Coalition
- Temple Sinai of Sharon
- Tenant Advocacy Project at Harvard Law School
- The Neighborhood Developers
- The Second Step
- Three Pyramids
- Town Administrator of Brookline, Mel Kleckner
- Town Manager of Amherst, Paul Bockelman
- Town Manager of Arlington, Adam W. Chapdelaine
- Town Manager of Danvers, Steve Bartha
- Town Manager of Randolph, Brian Howard
- Town Manager of Winthrop, Austin Faison
- Trinity Financial
- Urban Edge
- UNITE HERE Local 26
- United Food and Commercial Union Local 1445
- United Way of Massachusetts Bay and Merrimack Valley
- University of Massachusetts School of Law - Dartmouth
- Veterans Legal Services
- Volunteers of America
- Way Finders
- Western Massachusetts Network to End Homelessness
- WATCH Community Development Corporation
- WinnCompanies
- Womanshelter/ Compañeras
- Women's Bar Association
- Women's Fund of Western Massachusetts
- Worcester County Food Bank
- Y2Y Network
- YWCA Cambridge
- 123 Up And Adam, Inc.





February 14, 2023

Her Excellency Maura Healey  
Governor of the Commonwealth of Massachusetts  
State House Room 280  
Boston, Massachusetts 02133

RE: Access to Counsel Program for Evictions  
Dedicated Line Item FY24 Budget Request of \$7 million

Dear Governor Healey:

As you take office, we applaud your work to make housing a priority.

As property owners, **urge you to include \$7 million in your FY24 budget for an Access to Counsel Program** through a dedicated line item as proposed in SD. 1082 and HD. 3657, An Act promoting access to counsel and housing stability in Massachusetts.

We have joined together as some of the largest property managers and property owners in Massachusetts to call for access to counsel for tenants and owner occupants. Legal help and access to the right resources at the right time can prevent families from homelessness, prevent illegal or unnecessary evictions, prevent displacement, and create a path to housing stability that will strengthen all of our communities for the future.

While 86% of landlords are represented, 87% of tenants are unrepresented. An access to counsel program would help prevent unbalanced and unfair results while also working toward housing stability. Other states across the country are passing access to counsel programs including Connecticut, Maryland and Washington.

We urge you to seize this opportunity to invest in long-term housing stability reform by starting to fund and phase in a statewide access to counsel program in your FY24 budget.

Thank you.

Gilbert Winn

**Gilbert J. Winn**  
CEO  
WinnCompanies

Janet Frazier

**Janet Frazier**  
President  
Maloney Properties, Inc.

Dara Kovel

**Dara Kovel**  
Chief Executive Officer  
Beacon Communities

James Keefe

**James Keefe**  
Principal  
Trinity Financial

cc: Lieutenant Governor Kim Driscoll  
Secretary Matt Gorzkowicz, Executive Office of Administration and Finance  
Kate Cook, Chief of Staff, Office of Governor Maura Healey

**Signature:** *Gilbert Winn*  
Gilbert Winn (Feb 13, 2023 16:16 EST)  
**Email:** gwinn@winnco.com

**Signature:** *Dara Kovel*  
**Email:** dkovel@beaconcommunitiesllc.com

**Signature:** *Janet Frazier*  
Janet Frazier (Feb 14, 2023 12:37 EST)  
**Email:** jfrazier@maloneyproperties.com

**Signature:** *James G. Keefe*  
James G. Keefe (Feb 14, 2023 13:10 EST)  
**Email:** jkeefe@trinityfinancial.com

# BANKER & TRADESMAN

REAL ESTATE & FINANCIAL INFORMATION SINCE 1872

## Bills Aim to Ensure Access to Lawyers in Evictions, De-Leaded Homes for Renters

By Alison Kuznitz and James Sanna | State House News Service and Banker & Tradesman Staff | Oct 2, 2023

Low-income tenants who are at risk of being evicted could gain access to free legal representation through a proposed program that garnered support from housing attorneys during a legislative hearing Wednesday.

The program, outlined in a Sen. Sal DiDomenico bill (S.864), is meant to level the playing field for vulnerable Bay Staters, including people of color and residents with children, who are often not represented in Housing Court – unlike the vast majority of landlords, who have the support of lawyers. The House’s accompanying bill filed by Reps. David Rogers and Michael Day (H.1731) had a hearing before the Joint Committee on the Judiciary in May.

DiDomenico told the Joint Committee on Housing on Wednesday afternoon that his bill is a matter of justice and equity, and he signaled the proposal could potentially be incorporated into a more comprehensive housing bill this session. A past version of the bill – which had called for a “right” to counsel program, compared to the latest filing for “access” to counsel – was sent to study last session.

Full legal representation in eviction cases would cost Massachusetts about \$26 million, though it would save the state around \$63 million across various expenses, such as for emergency shelter and health care, [according to a 2020 Boston Bar Association analysis](#).

Danielle Johnson, Boston’s deputy director of the Office of Housing Stability, told lawmakers Wednesday the bill would have an “immense impact” on low-income residents, as well as low-income owner-occupants, who must endure “glaring” legal disparities as they look to remain in their homes.

The Massachusetts Access to Counsel Coalition – representing more than 240 organizations, including municipalities, tenant groups, property owners, health care providers, and housing advocates, among other stakeholders – supports the bills, arguing they alleviate the trauma families experience from being evicted and displaced.

Renee Spencer, a resident board member of the Wellesley Housing Authority, told lawmakers she was evicted about a dozen years ago after she fell behind on paying rent – despite working two jobs to try to make ends meet. Spencer, who didn't have a lawyer in court and said she was unable to successfully negotiate a payment plan, found herself homeless and relying on family and friends for shelter.

"I know the difference a lawyer can make," Spencer said at the hearing. "It feels like when you're by yourself in an eviction, you don't have a chance at all."

The same hearing showcased multiple other bills on the Joint Committee on Housing's plate that are angling to be added onto a catch-all housing policy bill the Healey administration is expected to file next month.

Among the most prominent: A bill from the committee's Senate co-chair, Boston Sen. Lydia Edwards, that would establish a state-level office of fair housing to spearhead government-wide initiatives to reduce housing discrimination and disparities in access to quality housing and report on Massachusetts' progress towards that goal, plus help enforce the state's existing fair housing laws

Two other bills – one that would codify the \$200 million Massachusetts Rental Voucher Program in statute and another that would create a fund to remove lead and other pollutants from rental housing – attracted broad support from housing advocates.

Currently the state's main rental assistance program, commonly known by its MRVP acronym, is re-created every year in the state budget said bill sponsor Salem state Sen. Joan Lovely, creating significant uncertainty around the program's rules every year for the roughly 12,000 households that rely on its subsidies to make ends meet. The bill would also write recent changes to the program into law that lowered the share of a recipient renters' income that must go towards rent from 40 percent to the more common 30 percent standard used in nearly all affordable housing units.

"Even though it's a lifeline for so many, it's at risk every year," said Abundant Housing Massachusetts representative Mike Kriesberg.

The apartment de-leading bill, called the Healthy Homes bill and sponsored by Quincy state Sen. John Keenan, Salem state Rep. Manny Cruz and Chicopee state Rep. Shirley Arriaga, would use

state resources to compliment work being done by an existing federal de-leading program, but focus the money on the state's 26 Gateway Cities due to the high numbers of poorer Bay Staters and people of color who live there, Cruz said.

"No one should have to live with the indignity of occupying [an unhealthy] home," he said. Arriaga shared her own story of apartment-hunting in 2015, when her child was very young and encountering some of the roughly 70 percent of the state's housing stock that's not certified as lead-free.

"The landlord said, 'Simply don't let your child touch the walls, windows, or faucet'" because of likely lead paint contamination, she said. "How is that even a thing? This is the sad reality of what's going on in Massachusetts."

**Correction 4:35 p.m. Oct. 2, 2023:** *An earlier version of this story misstated which type of party in an eviction case commonly has access to legal representation. Most landlords in eviction cases have a lawyer, while most tenants do not.*

# The Americans Most Threatened by Eviction: Young Children

About a quarter of Black babies and toddlers in rental households face the threat of eviction in a typical year, a new study says, and all children are disproportionately at risk.



By Emily Badger, Claire Cain Miller and Alicia Parlapiano

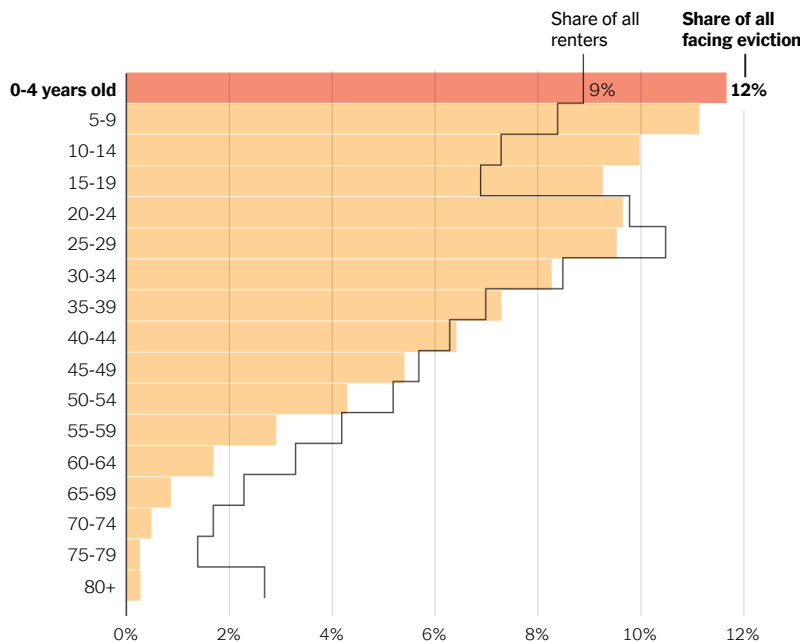
Oct. 2, 2023

The Americans most at risk of eviction are babies and toddlers, according to new data that provides the fullest demographic picture yet of who lives in rental households facing eviction nationwide.

Children under 5 make up the largest group by age of those whose households have had an eviction filed against them, weathering instability during crucial years for their development.

### Young Children Make Up the Largest Group Facing Eviction

Children under 5 make up 9 percent of those living in rentals but 12 percent of those affected by an eviction filing each year.



Source: "A Comprehensive Demographic Profile of the United States Evicted Population," by researchers at Princeton, Rutgers and the U.S. Census Bureau • Note: Data covers 2007-2016.

These children are typically invisible in legal documents that track eviction cases and that name only adults and leaseholders summoned to court. But by linking hundreds of thousands of eviction filings to detailed census records, researchers at Princeton, Rutgers and the Census Bureau have identified the other people living in these homes.

All children, and especially the youngest, account for a disproportionate share of those threatened with eviction, the study found. And the risk is acute for Black children and their mothers, ages 20 to 35. In a given year, about a quarter of Black children under 5 in rental homes live in a household facing an eviction filing.

Those patterns reflect in part how poorly the American housing market serves low-income families. And it suggests that housing instability falls heaviest on a young population least equipped to handle it.

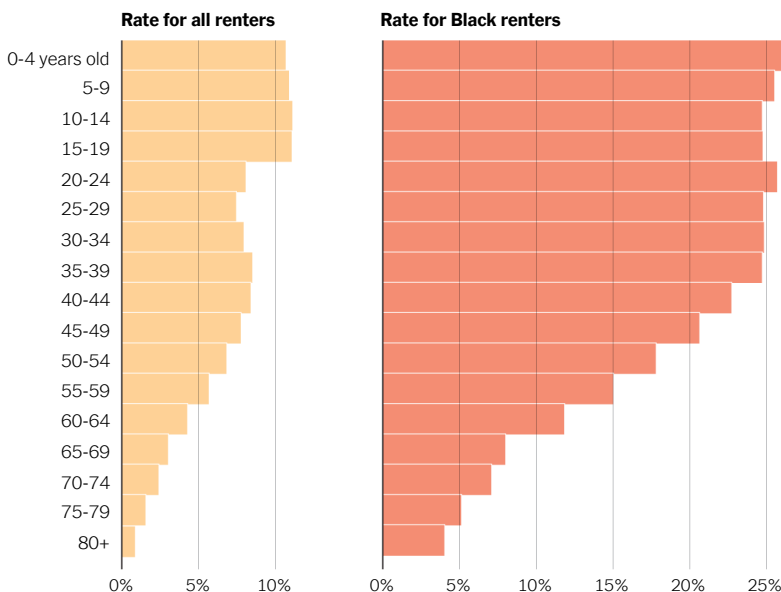
“When I started writing about these issues, I kind of thought kids would shield families from eviction,” said Matthew Desmond, who leads the Princeton Eviction Lab and contributed to the study, published Monday in the Proceedings of the National Academy of Sciences. “But they expose families to eviction.”

That is true, researchers, tenants and lawyers said, because renters with children face added financial burdens, limited housing options, and often discrimination from landlords.

“It is worse than I thought — it’s worse than I think many people will have expected,” said Shawnita Sealy-Jefferson, a social epidemiologist at Ohio State who has been studying Black mothers and caregivers facing eviction in Detroit. In her surveys and focus groups, women describe landlords who disdain them, and children with depression from unexpected moves. “How do you get over this? One woman said, ‘Your kids never really get over being evicted.’”

**Black Renters Face Eviction at Significantly Higher Rates**

Eleven percent of all children under 5 in rental households face eviction each year. But that rate is 27 percent for Black children under 5 in rentals.



Source: “A Comprehensive Demographic Profile of the United States Evicted Population,” by researchers at Princeton, Rutgers and the U.S. Census Bureau • Note: Data covers 2007-2016.

For landlords, children often bring unwanted risk. They make noise. They draw on walls. They require lead testing. For parents, having a baby can be a financial shock, making them more likely to miss rent. Low-wage workers are also least likely to receive paid parental leave, and more likely to have to quit to care for a baby.

**Sign up for The Upshot Newsletter** Analysis that explains politics, policy and everyday life, with an emphasis on data and charts. [Get it sent to your inbox.](#)

The Fair Housing Act protects families with children from discrimination, but that doesn’t necessarily stop landlords, said Eva Rosen, an associate professor at Georgetown, who has interviewed hundreds of landlords. They don’t say they’re evicting a renter because of the children, she said. But when families fall behind on rent, that “leaves renters vulnerable to landlords deciding who they do and don’t want to be lenient with.”

The National Apartment Association, which represents landlords big and small, argues that the larger problem is a national shortage of affordable housing and insufficient aid for low-income renters: “The answer is the same for a family or an individual facing eviction,” said Greg Brown, the group’s senior vice president for government affairs.

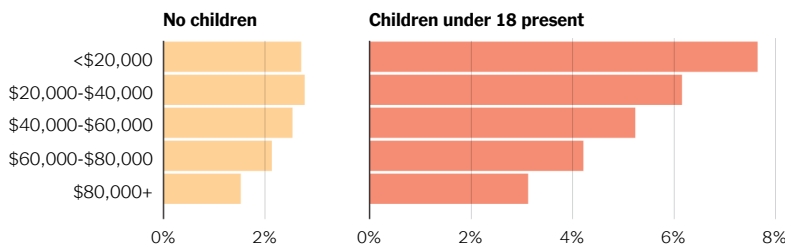
The new study sheds light on children by matching the names and addresses on eviction filings to responses to the American Community Survey, a census questionnaire given annually to a sample of American households. It also collects data on race that is missing from court documents.

Between 2007 and 2016, the years covered by the data, the researchers estimated that 2.9 million children were affected by an eviction filing each year. Every filing does not lead to an eviction judgment, but the cases leave lasting marks on credit reports that can influence a family’s ability to find stable housing for years. And many families leave their homes without waiting for a court order.

Evictions broadly declined with emergency pandemic-era policies, including eviction moratoriums, emergency rental assistance and an expanded safety net. But with those policies no longer in effect, the researchers believe that evictions are now returning to or surpassing the levels documented in the study, with the same groups disproportionately affected, said Nick Graetz, the lead author of the study.

At every income level, they found, households with children are more likely to receive an eviction judgment than households with no children. And the risk factor of children is especially apparent for Black female renters: 28 percent of those with children are threatened by eviction, compared with 16 percent of those without.

**Children Increase Eviction Risk at Every Income Level**  
Share of renters who are evicted each year, by household income.



Source: "A Comprehensive Demographic Profile of the United States Evicted Population," by researchers at Princeton, Rutgers and the U.S. Census Bureau • Note: Data covers 2007-2016.

In recent years, researchers have demonstrated that adverse childhood experiences can have lifelong consequences for health, education and employment. Housing instability before age 5 can lead to delays in kindergarten readiness, and is associated with attention and behavior challenges and delayed cognitive skills throughout school. In adolescence, these children are more likely to have depression and anxiety and challenges with information processing.

Housing instability makes parents stressed, which can affect children’s well-being, and it can cause children to experience other stressors, like food insecurity and gaps in health coverage.

“Especially with young children, the disruption strains parenting unbelievably, and when parents are strained, so are children,” said Patrick Fowler of Washington University in St. Louis, who studies homelessness and its effects on children. When families are forced to move often, he said, “kids are just constantly taking a hit on well-being, on cognitive development, on making friends, learning how to be friends, connecting with meaningful adults.”

Starting in kindergarten, public schools provide food, transportation, school nurses and relationships with teachers. And schools are required by federal law to identify and provide resources to homeless children. But low-income children under 5 have little such formal support.

Their families have constrained housing choices, given that the most affordable units — studios, one-bedrooms and single-room occupancy hotels — aren’t large enough to house children comfortably. Doubling up with friends and family is harder with children in tow. And when a family must move with an eviction filing on its record, that narrows the next housing options even more.



“It’s really a different section of the housing market that people are being pushed into,” said Jennifer Erb-Downward, who analyzes poverty and housing policy at the University of Michigan. This corner of the market typically doesn’t require credit reports. But the living conditions and legal protections are worse, and the rents aren’t that much cheaper. Tenants may have month-to-month leases or informal agreements. Scams are commonplace.

“We’ve trapped families into this,” Ms. Erb-Downward said.

Dionnah Wearing, a 28-year-old single mother, believed she was renting a legitimate three-bedroom row home in Philadelphia when she moved in with her young daughter in 2019. But the property manager became less responsive as problems with the house mounted, she said. Mold grew in the enclosed porch, and her daughter and a baby boy born last year developed respiratory problems.



Dionnah Wearing and her two children have no stable home after leaving a Philadelphia row home where the children developed respiratory problems. The housing most affordable to low-income families often comes with improper leases and poor conditions. HoJun Yu for The New York Times

Ms. Wearing eventually learned that the home didn’t have a valid rental license or a lead certificate on file with the city. But even without an eviction on her record, she can’t find another home that’s affordable, big enough for her children and close to school and day care. For now, she and her children stay with friends and relatives, or in hotels.

“My daughter constantly asks me, ‘When are we going to go home?’” said Ms. Wearing, whose daughter is 8. “She asked to play with her toys. She feels sad her friends can’t come over to play. She asks, ‘Are we homeless if we have nowhere to go?’”

In court, there’s no special leniency for families, said Holly Beck, a lawyer with Community Legal Services in Philadelphia, which has been assisting Ms. Wearing. Ms. Beck has seen infants in the courtroom, and children whose mothers had to choose between making school drop-off or an 8:45 a.m. court summons.

If policymakers recognized the problem of evictions as one that largely affects children, researchers and activists said, the solutions would go beyond housing.

Families too young to be screened for housing instability at school could receive referrals to services in pediatricians’ offices. Cities could start, as Seattle has, a school-year moratorium on evictions for households with minors. Some states and cities seal eviction records, reducing the risk that families are pushed toward predatory landlords. Research has also linked expansions of the earned-income tax credit to better housing outcomes for low-income mothers and children.

Children are resilient, Professor Fowler said, and stability later in childhood can erase some of the harmful effects of instability earlier. Inside homes, family routines and parental warmth are protective for children, as is improved maternal mental health.

“We all want to feel that when we go home, we feel safe, we feel comforted, there are positive things happening,” said Sherri Lawson Clark, a cultural anthropologist at Wake Forest who studies housing instability among poor families. “If you get to a place where you can build that, it will create that generational stability.”

**Emily Badger** writes about cities and urban policy for The Upshot from the Washington bureau. She's particularly interested in housing, transportation and inequality — and how they're all connected. She joined The Times in 2016 from The Washington Post. [More about Emily Badger](#)

**Claire Cain Miller** writes about gender, families and the future of work for The Upshot. She joined The Times in 2008 and was part of a team that won a Pulitzer Prize in 2018 for public service for reporting on workplace sexual harassment issues. [More about Claire Cain Miller](#)

**Alicia Parlapiano** is a graphics editor and reporter covering politics and policy from Washington. [More about Alicia Parlapiano](#)

A version of this article appears in print on , Section A, Page 17 of the New York edition with the headline: The Toll of Evictions On Children Is Wide, And Long-Lasting



# Investing in Fairness, Justice and Housing Stability

Assessing the Benefits of Full Legal  
Representation in Eviction Cases in Massachusetts  
*A Report of the Boston Bar Association*



BOSTON BAR ASSOCIATION



**ANALYSIS GROUP**

# **ASSESSING THE BENEFIT OF FULL LEGAL REPRESENTATION IN EVICTION CASES IN MASSACHUSETTS**

**JUNE 2020 STUDY UPDATE**

*Martha Samuelson  
Brian Ellman  
Ngoc Pham  
Emma Dong  
Samuel Goldsmith  
David Robinson*

## Introduction

In 2014, the Boston Bar Association State Task Force to Expand Civil Legal Aid in Massachusetts issued its seminal report entitled *Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts*. The report made a compelling case that increased appropriations for civil legal aid would result in significant savings to the state by way of reduced expenditures in areas such as housing and domestic violence, among others.

The Task Force report relied, in part, on a study by Analysis Group, a nationally known economic consulting firm. Its thorough and well-founded study determined that, in 2014, for every dollar spent by the state for civil legal aid in eviction and foreclosure matters, the state would save \$2.69 in costs associated with emergency shelters, health care, and other services as a result of evictions.

In a growing movement around the country, six cities have now provided a right to counsel in eviction cases to combat homelessness and its attendant costs. The Massachusetts Right to Counsel Coalition, coordinated by the Massachusetts Law Reform Institute, is advocating for legislation to provide for a right to counsel in eviction cases here in Massachusetts. In connection with this effort, Analysis Group agreed to update its 2014 study to assess the financial benefits to the state of providing full legal representation to indigent persons in eviction matters. As you will see, its team of researchers again produced, on a pro bono basis, a thorough and well-documented study, for which the Boston Bar Association is very grateful.

J.D. Smeallie  
Past President of the Boston Bar  
Association and Chair of the BBA's  
Statewide Task Force to Expand  
Civil Legal Aid in Massachusetts

## Abstract

In 2014, Analysis Group published a report (“2014 Report”) analyzing the monetary effects on the Commonwealth of Massachusetts (“the Commonwealth”) of providing full legal representation to eligible beneficiaries in housing matters. This report updates the cost estimates and cost savings estimates for eviction cases from the 2014 Report. Further, the present report builds on the 2014 Report by including discussions of cost savings categories that currently cannot be quantified due to a lack of available data. It also identifies additional cost savings to municipalities, school districts, sheriffs’ departments, and private property owners.

We find that by providing full legal representation in eviction proceedings, the Commonwealth ultimately saves on costs associated with homelessness, including emergency assistance and shelter, health care, and foster care. Specifically, in the updated report we estimate that full legal representation in eviction cases would cost the Commonwealth \$26.29 million, while the cost savings associated with such representation are estimated to be \$63.02 million. For every dollar spent on full legal representation in eviction cases, the Commonwealth saves approximately \$2.40 on the direct costs associated with homelessness.

Given the limitations in analyzing some of the societal costs associated with evictions, these estimates are likely to be conservative and underestimate the true benefit to the Commonwealth of providing full legal representation in eviction matters, and the true benefit to families and individuals in the Commonwealth who face eviction without legal representation.

## Table of Contents

<b>I. Executive Summary.....</b>	<b>4</b>
<b>II. Overview.....</b>	<b>5</b>
<b>III. Analyzing the Financial Effects of Providing Full Legal Representation in Eviction Cases .....</b>	<b>8</b>
a. Assessing the cost of full legal representation for all eligible individuals .....	8
i. Total number of eviction cases.....	8
ii. Percentage of eviction cases that qualify for full legal representation .....	8
iii. Percentage of eviction cases that default.....	9
iv. Average legal cost of each eviction case.....	10
v. Annual implementation cost for providing full legal representation in eviction cases .....	11
b. Assessing the incremental benefit of full legal representation on success rates.....	11
c. Assessing the incremental benefit of full legal representation on homelessness.....	12
d. Assessing the measurable savings derived from preventing homelessness.....	14
i. Reduction in emergency housing and shelter costs.....	14
ii. Reduction in health care costs.....	15
iii. Reduction in foster care costs.....	17
e. Summary of costs and net cost savings .....	18
<b>IV. Cost Savings Not Quantified Given Available Data and Additional Parties that Would Benefit from Cost Savings Due to Full Legal Representation in Eviction Cases.....</b>	<b>18</b>
a. Reduction in schools’ educational and behavioral support costs for children experiencing homelessness .....	19
b. Reduction in education delay and drop-out rates for children.....	20
c. Reduction in school transportation costs for children experiencing homelessness .....	20
d. Reduction in correctional system costs associated with homelessness .....	21
e. Increased job and family stability.....	21
f. Reduction in use of court staff time and resources.....	21
g. Reduction in other societal costs related to evictions.....	22
h. Reduction in costs of executing involuntary evictions .....	22
<b>V. Conclusion.....</b>	<b>23</b>

# Assessing the Benefit of Full Legal Representation in Eviction Cases

by Martha Samuelson,<sup>1</sup> Brian Ellman,<sup>1</sup> Ngoc Pham,<sup>1</sup> Emma Dong,<sup>1</sup> Samuel Goldsmith,<sup>1</sup> David Robinson<sup>2</sup>

## I. Executive Summary

In 2019, there were 39,594 eviction cases filed in Massachusetts courts, and 91.3% of the tenants in those cases did not have legal representation. 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. Given these negative outcomes and the associated costs to families, individuals, and the Commonwealth of Massachusetts, evictions are a significant social issue in the Commonwealth.

This report estimates the net economic benefit to the Commonwealth of providing full legal representation to eligible beneficiaries in eviction cases. We estimate that the annual cost of full legal representation for eligible cases is \$26.29 million. This cost estimate is based on an estimated number of 22,454 eviction cases that would receive free full legal representation (based on income eligibility criteria), an average cost of \$1,151 per case, and an implementation cost of \$0.45 million. We estimate that a minimum of 15,969 people would remain in their homes each year due to the introduction of full legal representation in eviction cases.

We estimate that the minimum annual cost savings of full legal representation to the Commonwealth is \$63.02 million. The cost savings comprise three categories: (1) \$41.04 million in cost savings from reduced emergency shelter costs; (2) \$17.84 million in cost savings from reduced health care costs; and (3) \$4.13 million in cost savings from reduced foster care costs. As a result, every dollar invested in the program can potentially save at least \$2.40 in annual costs to the Commonwealth.

In addition to these categories of cost savings, there are benefits to the Commonwealth from providing full legal representation in eviction cases that are difficult to quantify due to lack of available data, such as higher educational achievement; increased job, family, and housing stability; and improved administration of justice. There are also sources of cost savings not quantified in our analysis, including the reduction of:

1. schools' educational and behavioral support costs for children experiencing homelessness;
2. education delay and drop-out rates for children;
3. schools' transportation costs for children experiencing homelessness;
4. correctional system costs associated with homelessness;
5. use of court staff time and resources;
6. costs of executing involuntary evictions; and
7. other societal costs related to evictions.

---

<sup>1</sup> Martha Samuelson, Ngoc Pham, and Samuel Goldsmith are consultants with Analysis Group, Inc., in Boston, Massachusetts; Brian Ellman is a consultant with Analysis Group, Inc., in Washington DC; Emma Dong is a consultant with Analysis Group, Inc., in San Francisco, California. The views expressed in this paper are those of the authors alone, not those of its clients.

<sup>2</sup> David Robinson is a master's degree candidate (expected 2020) at the Massachusetts Institute of Technology's Department of Urban Studies and Planning. While pursuing his degree, David is also a graduate intern at the Massachusetts Law Reform Institute ("MLRI").



Our analysis is limited to cost savings to the Commonwealth. There are also many additional parties that are likely to benefit from cost savings due to full legal representation in eviction cases, such as the federal government, municipalities, school districts, sheriffs' departments, constables' offices, and property owners.

## II. Overview

The growing body of literature on evictions has found that evictions are associated with negative outcomes for tenants. For example, studies have found that evictions increase the probability of applying to homeless shelters and the time spent in homeless shelters;<sup>3</sup> that both evictions and the threat of eviction are associated with negative mental and physical health outcomes;<sup>4</sup> and that evictions are associated with greater material hardship<sup>5</sup> and employment insecurity.<sup>6</sup> Studies have also found that evictions disproportionately impact children, women, and people of color.<sup>7</sup> Given these negative outcomes, evictions are an important social issue in the Commonwealth.

In 2019, there were 39,594 eviction cases filed in Massachusetts courts.<sup>8</sup> Over the past 30 years, over one million eviction cases have been filed in Massachusetts.<sup>9</sup> Many of these cases resulted in judgments or agreements for judgments that caused individuals and families to lose possession of their homes.<sup>10</sup> Along with formal eviction cases filed in court, a growing body of research suggests that the incidence of formal eviction filings significantly undercounts the instances in which low-income tenants are forced to leave their homes.<sup>11</sup>

---

<sup>3</sup> Collinson, Robert, and Davin Reed, "The Effects of Evictions on Low-Income Households," December 2018 ("Collinson and Reed (2018)"), p. 3, available at [https://robcollinson.github.io/RobWebsite/jmp\\_rcollinson.pdf](https://robcollinson.github.io/RobWebsite/jmp_rcollinson.pdf).

<sup>4</sup> Vásquez-Vera, Hugo, et al., "The Threat of Home Evictions and its Effects on Health Through the Equity Lens: A Systematic Review," *Social Science & Medicine*, Vol. 175, 2017, pp. 199–208.

<sup>5</sup> Desmond, Matthew, and Rachel Tolbert Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces*, Vol. 94, No. 1, September 2015, pp. 295–324.

<sup>6</sup> Desmond, Matthew, and Carl Gershenson, "Housing and Employment Insecurity among the Working Poor," *Social Problems*, Vol. 63, Issue 1, February 2016, pp. 46–67 ("Desmond and Gershenson (2016)").

<sup>7</sup> Park, Sandra, "Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women," *ACLU Blog*, March 30, 2017 ("In King County, Washington, ... African-American tenants are nearly four times more likely to have an eviction case filed against them compared to white tenants" and "[the] disparity is even starker for African-American women: They are more than five times as likely to have a filing against them compared to households headed by white men"), available at <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>. See also Desmond, Matthew, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology*, Vol. 118, 2012, pp. 88–133, at p. 91 ("In black neighborhoods [in Milwaukee], women were more than twice as likely to be evicted as men"). See also Smith, Leora, "The Gendered Impact of Illegal Act Eviction Laws," *Harvard Civil Rights-Civil Liberties Law Review*, Vol. 52, Issue 2, 2017, pp. 537–559, at p. 540 (which focuses on New York and Toronto eviction data and marks "a first attempt to quantify a phenomenon that people familiar with public housing evictions already know to be true: that illegal act evictions from public housing disproportionately affect women").

<sup>8</sup> Commonwealth of Massachusetts, "Massachusetts Trial Courts Summary of Case Filings by Type: FY2015 to FY2019" ("Summary of Case Filings by Type: FY2015 to FY2019"), available at <https://www.mass.gov/info-details/trial-court-statistical-reports-and-dashboards>.

<sup>9</sup> Commonwealth of Massachusetts, "Annual Reports on the State of the Massachusetts Court System, Fiscal Years 1988 through 2018." Data were not available for certain years for certain courts.

<sup>10</sup> A 2005 survey analyzing 559 Massachusetts summary processes reported that landlords were awarded possession in 76% of the cases, a theme consistently observed in earlier versions of the survey. See Massachusetts Law Reform Institute, "2005 Summary Process Survey – Number 4" ("MLRI 2005 Summary Process Survey"), 2005, available at [https://www.masslegalservices.org/system/files/library/2005\\_summary\\_process\\_survey.pdf](https://www.masslegalservices.org/system/files/library/2005_summary_process_survey.pdf). See also Massachusetts Access to Justice Commission, "Massachusetts Justice for All Strategic Plan," December 22, 2017, p. 48 ("Under an [agreement for judgment], judgment typically enters for the landlord"), available at <http://www.mass2j.org/a2j/wp-content/uploads/2018/01/Massachusetts-JFA-Strategic-Action-Plan.pdf>.

<sup>11</sup> Desmond, Matthew, et al., "Forced Relocation and Residential Instability Among Urban Renters," *Social Service Review*, June 2015, pp. 227–262, at p. 244; Flowers, Andrew, "How We Undercounted Evictions by Asking the Wrong Questions," *FiveThirtyEight*, September 15, 2016, available at <https://fivethirtyeight.com/features/how-we-undercounted-evictions-by-asking-the-wrong-questions/>.

While a majority of plaintiffs, typically landlords, are represented by legal counsel, in 2019 91.3% of tenants in eviction proceedings did not have legal representation.<sup>12</sup> Although a majority of these tenants qualify for free legal assistance,<sup>13</sup> there is an “acute shortage in resources” for legal aid in housing matters, and more than half of eligible low-income citizens of the Commonwealth are turned away by legal aid agencies due to a lack of resources.<sup>14</sup> Primary research conducted by a team of Harvard University researchers has empirically shown that tenants are substantially more likely to retain possession of their homes when they have access to full legal representation,<sup>15</sup> suggesting that this imbalance of legal representation puts tenants at a disadvantage.<sup>16</sup>

For many people, the eviction process results in either substantial worsening of living conditions or homelessness, both of which are associated with increased costs to the Commonwealth. This report updates a 2014 analysis of the estimated economic benefit to the Commonwealth of providing legal representation to eligible parties in eviction cases. The report focuses on the annual costs to the Commonwealth of full legal representation for eviction cases where the defendant’s income falls below 200% of the federal poverty guidelines and the associated annual cost savings of families and individuals that would remain in their homes due to legal assistance. The cost savings highlighted in this report represent only the sheltered homeless population that would avoid homelessness due to legal assistance, and does not seek to quantify cost savings of unsheltered individuals and families or those experiencing severe housing instability. The report also discusses selected cost savings associated with providing full legal representation in eviction cases that cannot be quantified given available data. Further, it highlights additional parties that can benefit from cost savings, such as the federal government, municipalities, school districts, sheriffs’ departments, constables’ offices, and property owners.

The report proceeds in four general steps:

- First, we estimate the number of eviction proceedings in which the tenants may qualify for full legal representation, and calculate the costs associated with providing that legal assistance to all eligible defendants per year.

---

<sup>12</sup> Massachusetts Housing Court fiscal year 2019 statistics show that 78.4% of plaintiffs are represented in summary process cases versus 8.7% of defendants. Therefore, the percentage of defendants without legal representation is  $100\% - 8.7\% = 91.3\%$ . Massachusetts Court System, Housing Court Department, “Percent of Self-Represented Litigants in Summary Process Cases Disposed in FY 2019 by Division,” available at <https://www.mass.gov/doc/2019-housing-court-self-represented-represented-litigants-by-court-location/download>.

<sup>13</sup> Boston Bar Association, “Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts,” (“Investing in Justice”), October 2014, p. 74. (“According to the Massachusetts Legal Assistance Corporation (MLAC), approximately 75% of defendants in eviction cases meet [the criteria for civil legal aid]”), available at <https://bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>.

<sup>14</sup> Massachusetts Access to Justice Commission, “Massachusetts Justice for All Strategic Plan,” December 22, 2017, p. 34, available at <http://www.massa2j.org/a2j/wp-content/uploads/2018/01/Massachusetts-JFA-Strategic-Action-Plan.pdf>. See also Boston Bar Association, “Investing in Justice,” p. 3, available at <https://bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>.

<sup>15</sup> Throughout this report, we refer to “full legal representation” and “legal assistance” interchangeably. These terms mean that a party is fully represented by an attorney, which we distinguish from brief service or limited assistance.

<sup>16</sup> Greiner, D. James, et al., “The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future,” *Harvard Law Review*, Vol. 126, No. 901, February 2013 (“Greiner, et al. (2013)”), p. 903, available at <https://harvardlawreview.org/2013/02/the-limits-of-unbundled-legal-assistance-a-randomized-study-in-a-massachusetts-district-court-and-prospects-for-the-future/>. See also The Supreme Judicial Court Steering Committee on Self-Represented Litigants (of Massachusetts), “Addressing the Needs of Self-Represented Litigants in Our Courts: Final Report and Recommendations of the SJC Steering Committee on Self-Represented Litigants,” November 21, 2008, p. 4 (“the inability of some self-represented litigants to understand and comply with court rules and procedures may make it impossible for their cases, however worthy, to be decided on the merits”).

- Second, we estimate the annual cost savings to the Commonwealth associated with the estimated reduction in sheltered homelessness attributable to providing legal assistance to those eligible defendants.
- Third, we estimate the net savings to the Commonwealth from providing full legal representation to eligible defendants facing eviction.
- Fourth, we discuss additional cost savings that cannot be quantified due to a lack of available data, as well as additional parties that can benefit from cost savings.

Based on our analysis, we conclude that the provision of full legal representation to assist eligible beneficiaries in eviction proceedings is likely to have a net *positive* impact on the Commonwealth’s annual budget. As summarized in Table 1, the estimated annual cost of full legal representation for eligible cases is \$26.29 million, while the minimum annual cost savings of full legal representation is \$63.02 million. Every dollar invested in the program can potentially save *at least* \$2.40 in costs that the Commonwealth will not have to incur in that year.

**Table 1**  
**Summary of Estimated Costs and Cost Savings**

<b>Estimated Total Cost Savings to the Commonwealth</b>		
Estimated cost to the Commonwealth	[1]	\$26,294,283
Estimated total annual cost savings due to full legal representation	[2]	\$63,016,298
Net cost savings (conservative estimate)	[3]=[2]-[1]	\$36,722,015
<b>Cost savings per dollar spent (conservative estimate)</b>	<b>[4]=[2]/[1]</b>	<b>\$2.40</b>

We note that this analysis is highly conservative because it only quantifies the financial impact of evictions that result in sheltered homelessness. Not all families and individuals experiencing homelessness seek, or are eligible for, emergency shelter, with many finding irregular housing situations such as “couch-surfing” or living in overcrowded conditions. For this reason, this methodology likely underestimates the number of families and individuals who become homeless as the result of an eviction. The estimate also does not attempt to include non-quantifiable costs that are otherwise borne by others (such as federal or local governments). The non-quantified effects can have a substantial economic impact on both the families and the individuals facing eviction and the Commonwealth because deterioration of living conditions can lead to, among other problems, stress, loss of productivity or work altogether, and negative impacts on children and their education.<sup>17</sup> Therefore, the report understates the full savings to the Commonwealth (and more broadly, to society) associated with the provision of full legal representation for eligible defendants in eviction cases.

<sup>17</sup> See Gudrais, Elizabeth, “Disrupted Lives: Sociologist Matthew Desmond studies eviction and the lives of America’s poor” (“Disrupted Lives”), *Harvard Magazine*, January–February 2014 (“Many who are evicted end up in shelters or even on the street. When they do find housing, a record of eviction often means they are limited to decrepit units in unsafe neighborhoods. This transient existence is known to affect children’s emotional well-being and their performance in school; Desmond and his research team are also beginning to link eviction to a host of negative consequences for adults, including depression and subsequent job loss, material hardship, and future residential instability. Eviction thus compounds the effects of poverty and racial discrimination. ‘We are learning,’ says Desmond, ‘that eviction is a *cause*, not just a *condition*, of poverty”), available at <http://harvardmagazine.com/2014/01/disrupted-lives>.

### III. Analyzing the Financial Effects of Providing Full Legal Representation in Eviction Cases

#### a. Assessing the cost of full legal representation for all eligible individuals

We estimate that the total annual cost of providing full legal representation to all eligible beneficiaries in Massachusetts in eviction cases is approximately \$26.29 million, as summarized in Table 2.<sup>18</sup> Estimating this total annual cost is a necessary first step to quantify the per-dollar net savings to the Commonwealth and requires five inputs: (1) the number of families and individuals who face an eviction in a year; (2) the percent of families and individuals who qualify for legal assistance; (3) the percentage of eviction cases that default; (4) the average cost of representing each eviction case; and (5) the overhead and operational costs associated with ensuring that all eligible defendants are paired with qualified representation. This section describes how each of these inputs was estimated.

**Table 2**  
**Estimated Costs to the Commonwealth of Providing Civil Legal Aid**

Total number of eviction cases	[1]	39,594
Percentage of eviction cases that qualify for full legal representation	[2]	75%
Percentage of eviction cases that default	[3]	24%
Eligible eviction cases	$[4]=[1]*[2]*(1-[3])$	22,454
Average legal cost for each eviction case	[5]	\$1,151
Annual legal cost	$[6]=[5]*[4]$	\$25,848,624
Annual implementation cost	[7]	\$445,658
<b>Annual cost to represent eligible eviction cases</b>	$[7]+[6]$	<b>\$26,294,283</b>

##### i. Total number of eviction cases

In fiscal year 2019 (“FY2019”), there was a total of 39,594 summary process cases.<sup>19</sup> The number of eviction filings in Massachusetts over the past 12 years has been relatively stable, ranging from 37,051 to 41,812.<sup>20</sup> At this time, we have no reason to believe that the number of formal eviction filings will significantly change in the near future. As a result, we assume that there will be the same number of summary process cases in FY2020 as there were in FY2019.

##### ii. Percentage of eviction cases that qualify for full legal representation

We understand that the proposed legislation will provide full legal representation for defendants if their income is below 200% of the federal poverty guidelines. According to the Massachusetts Legal Assistance Corporation (MLAC), approximately 75% of defendants in eviction cases have incomes below 125% of the

<sup>18</sup> This does not include an estimate for full legal representation for indigent owner-occupants of two-family properties who are at 200% of poverty level or below and who are seeking possession, which legislation in Massachusetts proposes.

<sup>19</sup> Commonwealth of Massachusetts, “Massachusetts Trial Courts – Summary of Case Filings by Type: FY2015 to FY2019.”

<sup>20</sup> Commonwealth of Massachusetts, “Massachusetts Trial Courts – Summary of Case Filings by Type: FY2015 to FY2019”; Commonwealth of Massachusetts, “Massachusetts Trial Courts – Summary of Case Filings by Type: FY2005 to FY2014.”

federal poverty guidelines, are 60 years or older, or are Medicare recipients.<sup>21</sup> While it is highly likely that a higher proportion of defendants would have income levels below 200% of the federal poverty guideline, we were unable to identify any corresponding estimates. As such, we conservatively assume that 75% of eviction cases involve defendants with an income below 200% of the federal poverty guideline (i.e., \$52,400 per year for a family of four),<sup>22</sup> and estimate that 29,696 eviction cases would qualify for legal assistance in 2020.<sup>23</sup>

*iii. Percentage of eviction cases that default*

If the defendant in an eviction case does not come to court on the trial date or does not answer the court when the case is called, the court can enter a default judgment and rule to evict the tenant without a hearing or trial.<sup>24</sup> A study conducted by Stout Risius Ross for the Philadelphia Bar Association found that Philadelphia’s tenants with legal representation were 90% less likely to receive default judgments.<sup>25</sup> Similarly, analyses of data at zip code level from New York City on legal representation in eviction cases have found that areas in which full legal representation in eviction cases was introduced experienced an 11% decline in the number of eviction cases filed, compared to a 2% decline in those where full legal representation was not introduced.<sup>26</sup> Thus, there is reason to believe that legal representation for eligible cases would result in both lower default rates and fewer eviction filings. To our knowledge, there has not been a similar study conducted to examine the impact on default rates specific to the Commonwealth, but we would expect that legal representation for eligible eviction cases would similarly result in a lower default rate in Massachusetts.

According to the Massachusetts Law Reform Institute (“MLRI”), the average number of eviction cases that defaulted between 2015 and 2017 is 24.39%.<sup>27</sup> We apply this default rate to the number of eligible evictions and estimate that, under the proposed

---

<sup>21</sup> Samuelson, Martha, et al., and Boston Bar Association, “Economic Impact of Legal Aid in Eviction and Foreclosure Cases,” in “Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts,” October 2014, p. 74.

<sup>22</sup> The 2020 federal poverty guidelines effective as of January 15, 2020, state that the poverty line for a family of four is \$26,200. Therefore, 125% of the poverty line for a family of four is \$32,750 ( $\$26,200 * 1.25$ ) and 200% of the poverty line for a family of four is \$52,400 ( $\$26,200 * 2$ ). See “HHS Poverty Guidelines,” United States Department of Health and Human Resources, Office of the Assistant Secretary for Planning and Evaluation, January 17, 2020, available at <https://aspe.hhs.gov/poverty-guidelines>.

<sup>23</sup> Calculated as  $39,594 * 75\%$ .

<sup>24</sup> In 2019, a statewide survey was conducted to better understand the reasons why tenants in Massachusetts receive default judgments. The survey reviewed eviction cases in March 2019 in all of the Housing Court’s six divisions and identified 570 cases in which a tenant received a default judgment. AmeriCorps Legal Advocates and other volunteers knocked on all 570 doors of these tenants and spoke with over 140 tenants/respondents. The survey results revealed that the four most prevalent reasons why tenants did not appear in court and received default judgments were: 1) tenants did not receive a court summons or complaint; 2) tenants had paid what they owed and believed they did not need to appear in court; 3) tenants were affirmatively told that they did not need to attend court; and 4) tenants had medical or disability-related reasons, in some cases emergencies. See “The Default Project: Tenant Defaults in Housing Court Eviction Cases: Preliminary Findings and Policy Recommendations,” prepared at the request of the Massachusetts Access to Justice Commission Housing Committee by Massachusetts Law Reform Institute, Justice Center of Southeast Massachusetts, and AmeriCorps Legal Advocates of Massachusetts (forthcoming spring 2020).

<sup>25</sup> Stout Risius Ross, “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants,” November 13, 2018, p.7 (“Our analysis found that tenants who are represented are 90% less likely to lose by default than tenants without representation”).

<sup>26</sup> Mironova, Oksana, “NYC Right to Counsel: First year results and potential for expansion,” Community Service Society of New York, March 25, 2019, available at <https://www.cssny.org/news/entry/nyc-right-to-counsel>.

<sup>27</sup> Massachusetts court data from 2015 to 2017 provided to MLRI from the Massachusetts Trial Court Department. From 2015 to 2017, 20,539 cases defaulted out of a total of 84,221 cases disposed.

legislation, the Commonwealth would fund legal representation in 22,454 eviction cases.<sup>28</sup>

iv. *Average legal cost of each eviction case*

The average cost to provide full legal representation in each eviction case depends on the actual hourly costs of Massachusetts legal aid lawyers, including associated overhead and administrative costs incurred by the legal aid organizations, and the average number of hours spent per case. A survey was conducted among Massachusetts legal aid organizations that represent defendants in eviction cases. The survey was sent to the six organizations representing the legal services regions in the state via email on October 24, 2019. Complete survey responses were received from four organizations. The other two organizations provided information on hourly rates, but indicated that they did not keep track of all the information needed to respond fully to the survey, such as the total number of hours spent on eviction cases. One of these two organizations had hourly costs comparable to the four organizations that fully completed the survey. The other organization had higher actual hourly costs than the other organizations that responded. The survey questions are shown below in Table 3.<sup>29</sup>

**Table 3**  
**Survey Questions**

- 
- 1) What is the name of your legal services organization?
  - 2) How many eviction cases did your organization take in FY 2018 that required full legal representation?
  - 3) In 2018, how many total billable hours were spent on an average eviction case that required full legal representation? This number should represent the total number of attorney hours across junior, mid-level and senior housing attorneys per average case.
  - 4) What is the estimated number of hours spent by junior housing attorneys?
  - 5) What is the estimated number of hours spent by mid-level housing attorneys?
  - 6) What is the estimated number of hours spent by senior housing attorneys?
  - 7) What is the average hourly rate for a junior housing attorney (in \$ per hour)?
  - 8) What is the average hourly rate for a mid-level housing attorney (in \$ per hour)?
  - 9) What is the average hourly rate for a senior housing attorney (in \$ per hour)?
  - 10) Are there additional costs to your organization that are not factored into the hourly rates from the previous section?
  - 11) If yes to question 10, please list these costs and provide an estimate in dollars of the cost per eviction case that requires full legal representation of these additional expenses.
  - 12) Do you have any additional comments about the cost of full legal representation for eviction cases that should be considered?
- 

The weighted average legal cost for representing an eviction case, as reported by the surveyed organizations, is \$1,151.<sup>30</sup> This cost includes additional administrative costs to the organizations. There was little variation in the estimated cost per case across the organizations that responded to the survey, indicating that the cost estimates provided in survey responses are reliable.

---

<sup>28</sup> Calculated as 29,696 \* (1 - 24.39%). We note that by assuming that the default rate in Massachusetts remains unchanged, we may underestimate the total cost to the Commonwealth of providing legal representation, but would also underestimate the total amount of cost savings to the Commonwealth. As a result, this approach underestimates the *net* cost of providing legal representation in eligible eviction cases.

<sup>29</sup> The level of seniority of an attorney is defined as: junior for zero to three years of experience practicing law; mid-level for four to 10 years practicing law; and senior for 11 or more years practicing law.

<sup>30</sup> This calculation is based on estimated legal costs from FY2018. We assume the legal costs of providing full legal representation will stay constant in 2020. Weighting was done based on the number of eviction cases each organization handled in the year.

v. *Annual implementation cost for providing full legal representation in eviction cases*

Based upon the proposed legislation, we assume that an independent department within an existing agency in the Commonwealth would be formed to implement a program to provide full legal representation in evictions. We assume that this department will have four employees – two senior-level directors, one mid-level analyst, and one administrative assistant – in order to prepare a plan, develop standards and criteria for designated agencies to provide representation, implement a coordinated right-to-counsel program statewide, and collect eviction data to study and evaluate the impact of the program.

To estimate the costs associated with administering and implementing the program, 2019 data on the compensation of similarly positioned employees of the Commonwealth were collected from public sources. As shown in Table 4 below, the estimated total salary and benefit costs for these Commonwealth employees range from \$70,935 to \$126,478.<sup>31</sup> Overhead costs are assumed to be equal to 10% of the total personnel costs of the department (\$40,514), which is consistent with guidance provided by the Commonwealth for budgeting purposes. As such, the total estimated operating and overhead cost associated with administering and implementing the program is \$445,658.<sup>32</sup>

**Table 4**  
**Implementation Costs**

<b>Position</b>	<b>Salary</b>	<b>Benefits</b>	<b>Total Costs</b>
Senior-level director	\$ 97,291	\$ 29,187	\$ 126,478
Senior-level director	\$ 97,291	\$ 29,187	\$ 126,478
Mid-level analyst	\$ 62,502	\$ 18,751	\$ 81,253
Administrative assistant	\$ 54,565	\$ 16,370	\$ 70,935
Overhead costs			\$ 40,514
<b>Total</b>	<b>\$ 311,649</b>	<b>\$ 93,495</b>	<b>\$ 445,658</b>

**b. Assessing the incremental benefit of full legal representation on success rates**

Based on a randomized test and control study conducted in Quincy, Massachusetts, it was estimated that an *additional* 28% of tenants retain possession of housing when they receive full legal representation in eviction cases.<sup>33</sup> Given that the unrepresented tenants (control group) in this study received *limited* legal assistance, and a majority of tenants in Massachusetts eviction cases do not receive *any* legal assistance, this 28% likely

<sup>31</sup> We used 2019 data on the compensation of similarly positioned employees to estimate the salaries of state employees. We assume that benefits are 30% of an employee’s salary. See “Statewide Payroll,” Commonwealth of Massachusetts, available at <http://cthrupayroll.mass.gov>.

<sup>32</sup> Calculated as 10% of the total personnel costs of the department (\$405,144 \* 10%). See “Administrative Bulletin: Fringe Benefits, Payroll Taxes and Indirect Costs (A&F 5),” Commonwealth of Massachusetts: Executive Office for Administration and Finance, May 1, 2008, available at <https://www.mass.gov/administrative-bulletin/fringe-benefits-payroll-taxes-and-indirect-costs-af-5#indirect-costs> (“For departments without a federally approved rate, the indirect cost rate will be equal to ten percent (10%) of the department’s personnel costs, including both regular employees and contract employees”).

<sup>33</sup> Greiner, et al. (2013), p. 927. Note that for the subset of individuals who prevail, we assume that the individual will retain housing following an eviction proceeding for at least the remainder of the fiscal year.

underestimates the impact of full legal representation;<sup>34</sup> thus, the incremental impact of full legal representation on the outcome of eviction cases will likely be even higher.<sup>35</sup> Using this conservative estimate of the impact of representation on the outcome of eviction cases, we estimate that an *additional* 6,287 cases would preserve their housing if provided with full legal representation. Assuming that 77% of these cases are families and 23% are individuals,<sup>36</sup> and there is an average of three people per family,<sup>37</sup> we estimate that at least 15,969 people would remain in their homes per year due to full legal representation.<sup>38</sup> In other words, without representation, 15,969 people would lose possession of their homes; with representation, those people would preserve their housing.<sup>39</sup>

### c. Assessing the incremental benefit of full legal representation on homelessness

A proportion of evicted people will experience homelessness and enter emergency shelter. By providing full legal representation in eviction cases, as discussed above, the number of people who are evicted and subsequently experience homelessness has been demonstrated to decrease.<sup>40</sup> This reflects potential economic savings to the Commonwealth.

As a next step in our calculation, we estimate the number of people who are likely to avoid homelessness when provided with full legal representation.<sup>41</sup> To calculate the cost savings to the Commonwealth, we first derive an estimate of the number of families and individuals

---

<sup>34</sup> The Massachusetts Trial Court reported in FY19 that 91.3% of tenants in summary process cases did not have legal representation. See “Percent of Self-Represented Litigants in Summary Process Cases Disposed in FY 2019 by Division,” Housing Court Department, available at <https://www.mass.gov/doc/2019-housing-court-self-represented-represented-litigants-by-court-location/download>.

<sup>35</sup> For instance, many of the study participants in the control group “received limited legal assistance in the form of how-to clinics run by a Greater Boston Legal Services (GBLS) staff attorney.” See Greiner, et al. (2013), p. 908. Therefore, the overall impact of full legal representation is likely higher than the 28% estimated in the study.

<sup>36</sup> “The Importance of Representation in Eviction Cases and Homelessness Prevention: A Report on the BBA Civil Right to Counsel Housing Pilots,” Boston Bar Association Task Force on the Civil Right to Counsel, March 2012 (“BBA Eviction Report (2012)”), p. 47.

<sup>37</sup> National studies estimate that the average size of a family experiencing homelessness is three persons (one woman and two children). “Homelessness in America: Focus on Families with Children,” United States Interagency Council on Homelessness, September 2018, p. 1 (184,661 individuals / 58,000 households = 3.14). Data from the Massachusetts Department of Housing and Community Development (“DHCD”) from 2018 shows that there were 3,171 families in shelter with seven or fewer members, and these families comprised 10,221 individual family members. We estimate that the family size of a family experiencing homelessness in shelter is three (10,221 / 3,171 = 3.22).

<sup>38</sup> With full legal representation, an additional 4,841 families per year would remain in their homes (6,287 cases \* 77% of cases are families = 4,841).

With full legal representation, an additional 14,523 individual family members per year would remain in their homes (4,841 families would remain in their homes due to full legal representation \* three people per family = 14,523).

With full legal representation, an additional 1,446 individuals per year would remain in their homes (6,287 cases \* 23% of cases are individuals = 1,446).

Thus, an additional 15,969 people per year would remain in their homes due to full legal representation (14,523 individual family members + 1,446 individuals = 15,969).

<sup>39</sup> Calculated as 22,454 \* 28% = 6,287. See Table 5.

<sup>40</sup> New York City, which began phasing in full legal representation for tenants at 200% of the federal poverty guideline, found that 84% of tenants with full legal representation remain in their homes. “Universal Access to Legal Services: A Report on Year One of Implementation in New York City,” New York City Human Resources Administration, Fall 2018, available at <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf>.

<sup>41</sup> We base our cost savings estimates to the Commonwealth on the number of people who are likely to avoid homelessness under a system with full legal representation, rather than the existing number of people who are in shelters due to evictions or threatened evictions. We do this for two reasons. First, the costs of legal assistance are based on the number of cases eligible for full legal representation who are below 200% of federal poverty guidelines and did not default. Thus, to estimate the net cost savings to the Commonwealth, we derive cost savings from the same number of cases from which we derive the costs. Second, this report attempts to estimate the future savings to the Commonwealth. Using the number of cases in which tenants would remain in their homes due to full legal representation is a more appropriate measure of future savings than using the existing shelter population.



who *would have* entered the emergency shelter system if they had been evicted. As not all individuals experiencing homelessness seek or are eligible for emergency shelter, it is likely that the true number of individuals who experience homelessness as a result of an eviction is even higher, making our savings estimates conservative.<sup>42</sup>

As shown in Table 5, we estimate that 77% of eviction cases involve families.<sup>43</sup> According to the Massachusetts Department of Housing and Community Development (DHCD), 14.3% of families entering the shelter system in FY2019 indicated that an eviction or threatened eviction was the *proximate* cause of their homelessness.<sup>44</sup> Therefore, we assume conservatively that 14.3% of evicted families are likely to enter the shelter system.<sup>45</sup> We estimate that the remaining 23% of eviction cases involve individuals, and we assume that 20% of evicted individuals enter the shelter system.<sup>46</sup> As a result, we estimate that 692 families<sup>47</sup> and 289 individuals<sup>48</sup> would be kept out of the shelter system if provided with full legal representation in eviction cases.

---

<sup>42</sup> Many families and individuals will not enter or be eligible for emergency shelter. These families and individuals can end up unsheltered, or living in irregular housing situations such as couch-surfing or doubled-up, or conditions not meant for habitation.

<sup>43</sup> BBA Eviction Report (2012), p. 47. We assume that each eviction case involving families only involves one family.

<sup>44</sup> Massachusetts' DHCD publishes quarterly reports on the Emergency Assistance, HomeBASE, and Residential Assistance for Families in Transition ("RAFT") Programs. See "Emergency Assistance, HomeBASE and RAFT Programs: FY2019, Fourth Quarterly Report," Commonwealth of Massachusetts: Department of Housing and Community Development, August 9, 2019 ("Q4 2019 DHCD Emergency Assistance Report"). See also, "The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A," Stout Risius Ross, March 16, 2016, p. 17. The report cited a study conducted in 2007 in New York City that reported, "23% of families entering shelter listed eviction as the direct cause of their shelter entry. However, when surveyed specifically about evictions, 38% of families responded that they had experienced a formal eviction and an additional 9% of families reported an informal eviction within the last five years." See also Collinson and Reed (2018), p. 3. This study found that in New York City, evictions caused a 14% increase in the probability of applying to homeless shelters. The study compared households that were evicted to a control group of households that were not evicted but did receive an eviction filing in court.

We further note that tenants experiencing domestic violence also face eviction because of such violence. See Ross, Kristen M., "Eviction, Discrimination, and Domestic Violence: Unfair Housing Practices against Domestic Violence Survivors," *Hastings Women's Law Journal*, Vol. 18, No. 2, 2007. Although there are no statewide data currently available in Massachusetts showing the extent to which families facing domestic violence also face eviction, in FY19, 16% of families entering the emergency shelter system stated that the proximate cause of their homelessness was domestic violence. See "DHCD EA Monthly Report, Statewide Summary," June 2019, available at <https://www.mass.gov/doc/ea-monthly-report-june-2019/download>.

In addition, elders living alone or on fixed incomes are increasingly threatened with housing instability and homelessness. A recent report projects that the elder population experiencing homelessness in Boston will nearly triple between 2011 and 2030. The increases in homelessness among the elderly in Boston will also lead to a projected doubling in shelter and health care costs from \$33.2 million in 2011 to \$67.4 million in 2030 (this estimate excludes associated increases in Medicare costs). See Culhane, Dennis, et al., "The Emerging Crisis of Aged Homelessness: Could Housing Solutions Be Funded by Avoidance of Excess Shelter, Hospital, and Nursing Home Costs?" January 2019, available at <https://www.aisp.upenn.edu/wp-content/uploads/2019/01/Emerging-Crisis-of-Aged-Homelessness-1.pdf>.

<sup>45</sup> The percentage used in our calculation may underestimate the percentage of evicted families who enter the emergency shelter system because an eviction may not have been the *proximate* cause of their homelessness (for example, families may have found temporary alternative housing, such as couch-surfing, for a period of time prior to entering the shelter). Thus, 14.3% is a conservative estimate of evicted families who ultimately enter the shelter system due to an eviction.

<sup>46</sup> BBA Eviction Report (2012), p. 47. "Civil Legal Aid Yields Economic Benefits to Clients and to the Commonwealth," *Massachusetts Legal Assistance Corporation*, FY2012, p. 11. We assume that each eviction case involving individuals only involves one individual. We are not aware of any recent data estimating the share of individuals entering the shelter system; thus, consistent with our 2014 study, we assume that 20% of individuals enter the shelter system based on a 2012 MLAC estimate.

<sup>47</sup> Calculated as  $6,287 * 77% * 14.3%$  (628). See Table 5.

<sup>48</sup> Calculated as  $6,287 * 23% * 20%$  (289). See Table 5.

**Table 5**  
**Families and Individuals Prevented from Entering the Shelter System Due to Civil Legal Aid**

Eligible eviction cases	[1]	22,454
Additional percentage of cases that prevail with full representation	[2]	28%
Additional number of cases that prevail due to full legal representation	[1]*[2]	6,287
Percentage of eviction cases involving families	[2a]	77%
Percentage of evicted families that end up in the shelter system	[3a]	14%
<b>Number of families kept out of the shelter system due to full legal representation</b>	<b>[1]*[2a]*[3a]</b>	<b>692</b>
Percentage of eviction cases involving individuals	[2b]	23%
Percentage of evicted individuals that end up in the shelter system	[3b]	20%
<b>Number of individuals kept out of the shelter system due to full legal representation</b>	<b>[1]*[2b]*[3b]</b>	<b>289</b>

**d. Assessing the measurable savings derived from preventing homelessness** Having derived estimates for the number of families and individuals who are saved from homelessness due to receiving full representation in eviction cases, it is necessary to determine the costs associated with sheltered homelessness that are ultimately saved through this intervention.

We have analyzed three categories of quantifiable costs to the Commonwealth related to homelessness for which the body of existing literature provides sufficient information for our calculation of potential savings. We estimate that the minimum quantified cost savings to the Commonwealth are \$63.02 million. As discussed elsewhere in this report, there are many other societal costs associated with homelessness that are not included in our calculation. Therefore, the potential savings to the Commonwealth associated with providing legal assistance are likely to be substantially greater than the estimates provided below.

*i. Reduction in emergency housing and shelter costs*

Based on the Massachusetts DHCD, the costs to the Commonwealth of providing emergency shelter are, on average, \$54,450 per family per shelter stay<sup>49</sup> and \$11,552 per individual per shelter stay.<sup>50</sup>

Using the estimates of families and individuals that would be kept out of the shelter system if they had access to full legal representation in eviction cases, we estimate that the Commonwealth would save approximately \$41.0 million on emergency housing and shelter costs annually by providing full legal representation in these cases (see Table 6).

<sup>49</sup> From Q1 to Q4 2019, the average length of stay for a family in a shelter was 363 days. The average daily rate for a shelter or motel stay in 2019 was \$150. The average annual cost for a family shelter stay is calculated as 363 \* \$150 = \$54,450. See Q1 2019 DHCD Emergency Assistance Report; Q2 2019 DHCD Emergency Assistance Report; Q3 2019 DHCD Emergency Assistance Report; Q4 2019 DHCD Emergency Assistance Report.

<sup>50</sup> Based on FY2015 data provided by the DHCD to the Massachusetts Housing and Shelter Alliance (“MHSA”), the average daily cost per bed in a shelter was \$31.65. It is assumed that all shelters run at full capacity each night and that the average shelter stay for an individual is 365 days. The average cost per individual is calculated as \$31.65 \* 365 = \$11,553.

**Table 6**  
**Shelter Cost Savings**

Number of families kept out of the shelter system due to full legal representation	[1a]	692
Average annual cost per family in the shelter system	[2a]	\$ 54,450
Annual shelter cost savings due to full legal representation (families)	[3a]=[1a]*[2a]	\$37,701,859
Number of individuals kept out of the shelter system due to full legal representation	[1b]	289
Average annual cost per individual in the shelter system	[2b]	\$ 11,552
Annual shelter cost savings due to full legal representation (individuals)	[3b]=[1b]*[2b]	\$3,340,945
<b>Annual total shelter cost savings to the Commonwealth due to full legal representation</b>	<b>[3a]+[3b]</b>	<b>\$ 41,042,804</b>

ii. *Reduction in health care costs*

Studies have found significant negative health outcomes for individuals and families experiencing homelessness, which we quantify below.<sup>51</sup> Home and Healthy for Good (“HHG”) is an initiative under the Massachusetts Housing and Shelter Alliance (“MHSA”) in which individuals who previously experienced chronic homelessness are offered a permanent place to live.<sup>52</sup> According to a June 2019 report by MHSA, the medical costs incurred on behalf of 713 participants in the HHG program decreased by a total of \$7.6 million during the six months after being housed, compared to the medical costs incurred while experiencing homelessness during the six months prior to joining the program.<sup>53</sup>

From the annualized costs reported by MHSA, we estimate the average annual health care cost for individuals experiencing homelessness was \$39,928, whereas the average annual health care cost for individuals who obtained housing was \$18,613.<sup>54</sup> As such, this study suggests that there is a health care savings of \$21,314 per adult individual kept from homelessness.<sup>55, 56</sup> Because the data are limited on the full cost of health care for children experiencing homelessness, we assume conservatively that the health care savings of a child are half of the health care costs of an adult (\$10,658).<sup>57</sup>

<sup>51</sup> “Homeless populations, including children, have been shown to experience poorer physical and mental health, compared with those with stable housing, while also having increased health care spending. They have higher rates of hospitalization for asthma, are more likely to contract common infections, such as otitis media and gastroenteritis, and have a higher prevalence of behavioral and mental health problems, including attention-deficit/hyperactivity disorder and suicide ideation.” See Stewart, Amanda M., et al., “Pediatric Emergency Department Visits for Homelessness After Shelter Eligibility Policy Change,” *Pediatrics*, Vol. 142, No. 5. November 2018, p. 2.

<sup>52</sup> “Permanent Supportive Housing: A Solution-Driven Model, June 2019 Home & Healthy for Good Progress Report,” *Massachusetts Housing and Shelter Alliance*, June 2019 (“June 2019 MHSA Report”), available at <https://www.mhsa.net/sites/default/files/June%202019%20HHG%20Report.pdf>.

<sup>53</sup> Figures taken from this report are annualized. See June 2019 MHSA Report, p. 7.

<sup>54</sup> Over 77% of all Home and Healthy for Good participants are male. See June 2019 MHSA Report.

<sup>55</sup> Calculated as \$39,928 - \$18,613. See Table 7.

<sup>56</sup> Note that this study was based on costs incurred by a cohort of individuals experiencing chronic homelessness, who are the highest-end utilizers of the state’s health care systems. These individuals have repeated or extended stays of a year or more on the streets and in shelters (and thus may incur more costs in a year than the average individual experiencing homelessness). Therefore, it is possible that this \$21,314 estimate overstates the average health care costs associated with homelessness from eviction.

<sup>57</sup> Single individuals experiencing homelessness tend to be adult males, while families experiencing homelessness tend to be headed by women and include one or more young children. Because our estimated health care costs are based primarily on male individuals

We estimate that the average family size is three persons, and that the makeup of the average family is one adult individual and two children, assuming the health care cost is on average 50% of that of an adult.<sup>58</sup> Using the estimates of families and individuals kept out of the shelter system due to full legal representation in eviction cases, we estimate savings of approximately \$35.7 million on health care costs annually by providing full legal representation in eviction cases. It is our understanding that the federal government reimburses the Commonwealth for 50% of the cost of state-provided health care.<sup>59</sup> As such, we estimate that the Commonwealth would save approximately \$17.8 million on health care costs annually by providing full legal representation in eviction cases (see Table 7).<sup>60</sup>

**Table 7**  
**Health Care Cost Savings**

Average annual health care costs for an individual experiencing chronic homelessness	[1]	\$ 39,928
Average annual health care costs for a currently housed (previously homeless) individual	[2]	\$ 18,613
Incremental annual health care savings of keeping an individual housed	[3]=[1]-[2]	\$ 21,314
Number of families kept out of the shelter system due to full legal representation	[4a]	692
Number of adults per family (assumption)	[5a]	1
Number of children per family (assumption)	[5b]	2
Annual health care cost savings due to full legal representation (families)	[6a]=[3]*[4a]*([5a]+50%*[5b])	\$ 29,516,353
Number of individuals kept out of the shelter system due to full legal representation	[4b]	289
Annual health care cost savings due to full legal representation (individuals)	[6b]=[3]*[4b]	\$ 6,164,113
Annual total health care cost savings due to full legal representation	[7]=[6a]+[6b]	\$ 35,680,466
<b>Annual total health care cost savings to the Commonwealth due to full legal representation</b>	<b>[7]*50%</b>	<b>\$17,840,233</b>

experiencing homelessness, and we have not found comparable estimated health care costs for women and children, we assume that the health care costs for an average adult woman experiencing homelessness are the same as an adult male experiencing homelessness, and that the health care costs for an average child is equivalent to half that of an average adult individual. Medical studies indicate, however, that infants and younger children experiencing homelessness were more likely than were older children to have an emergency department (“ED”) visit or hospitalization “because of parents relying on EDs for routine care or their heightened concern for a young child’s well-being.” In addition, “[p]regnancy and childbirth were leading conditions associated with adults’ ED visits and had the strongest association with hospital admissions. Increasing stress and disrupted access to usual care sources in the periods **before** and during homelessness may lead to more pregnancy and childbirth complications and greater reliance on emergent treatment settings for prenatal and postpartum care.” See Clark, Robin E, et al., “Health Care Utilization and Expenditures of Homeless Family Members Before and After Emergency Housing,” *American Journal of Public Health*, Vol. 108, No. 6, 2018, pp. 808–814 (“Clark, et al. (2018)”). See also “Homelessness in America: Focus on Families with Children,” p. 1.

<sup>58</sup> National studies estimate that the average size of a family experiencing homelessness is three persons (one woman and two children). “Homelessness in America: Focus on Families with Children,” p. 1 (184,661 individuals / 58,000 households = 3.14). Data from the Massachusetts DHCD from 2018 show that there were 3,171 families in shelter with seven or fewer members, and these families comprised 10,221 individual family members. These data are consistent with the national studies, and show that the average size of a family experiencing homelessness in shelter consists of three people (10,221 / 3,171 = 3.22).

<sup>59</sup> Mitchell, Alison, “Medicaid’s Federal Medical Assistance Percentage (FMAP),” Congressional Research Service, April 25, 2018, available at <https://fas.org/sgp/crs/misc/R43847.pdf>, p. 12.

<sup>60</sup> Note that health care cost savings to the federal government are not included in our estimates and may indirectly benefit taxpayers in the Commonwealth.

iii. *Reduction in foster care costs*

According to a report published by the Boston Foundation, children in about 20% of families experiencing homelessness are placed in the foster care system.<sup>61,62</sup> This represents a significant cost to the Commonwealth. To estimate the potential savings to the Commonwealth associated with preventing homelessness and the resulting additional costs to the foster care system, we conservatively assume that families are able to immediately regain custody of their children once they are no longer experiencing homelessness. We also assume that there are two children per family experiencing homelessness.<sup>63</sup> We multiply the average length of family shelter stay (11.93 months)<sup>64</sup> by the average monthly foster care cost in Massachusetts for two children (\$2,501)<sup>65</sup> to obtain the average per-family cost of keeping children from evicted families experiencing homelessness in the foster care system (\$29,847).<sup>66</sup>

**Table 8**  
**Foster Care Cost Per Child**

Massachusetts annual spending on family foster care	[1]	\$ 129,302,014
Percent of foster care financed by federal government	[2]	29%
Total cost of family foster care to the Commonwealth	[3]=[1]*(1-[2])	\$ 91,804,430
Children in Massachusetts family foster care system	[4]	6,118
Estimated cost per child per month	[5]=[3]/[4]/12	\$ 1,250
<b>Estimated cost per month of two children</b>	<b>[6]=[5]*2</b>	<b>\$ 2,501</b>

We conservatively estimate that the Commonwealth would save approximately \$4.13 million on foster care costs annually by providing full legal representation in eviction cases (see Table 9).

<sup>61</sup> Friedman, Donna H. et al., “Preventing Homelessness and Promoting Housing Stability: A Comparative Analysis,” The Boston Foundation, 2007, available at [http://scholarworks.umb.edu/csp\\_pubs/3](http://scholarworks.umb.edu/csp_pubs/3), p.40

<sup>62</sup> We have not identified any studies that compare the costs or likelihood associated with the provision of foster care for families experiencing homelessness to disadvantaged families that are not experiencing homelessness. For purposes of this analysis, we assume that beneficiaries of full legal representation who would not end up in emergency shelter would not require the foster care system. To the extent the Commonwealth incurs these costs for beneficiaries who would not become homeless, this assumption may overstate the potential savings to the Commonwealth associated with this cost category.

<sup>63</sup> Our assumption of two children per family experiencing homelessness is consistent with recent national studies on homelessness, which estimate an average size of a family experiencing homelessness of three. See “Homelessness in America: Focus on Families with Children,” p.1 (184,661 individuals / 58,000 households = 3.14). See also Clark, et al. (2018). Single individuals experiencing homelessness tend to be adult males, while families experiencing homelessness tend to be headed by women and include one or more young children (most national studies estimate a typical family size of one woman and two children).

<sup>64</sup> From Q1 to Q4 2019, the average length of stay for a family in a shelter was 363 days, or 11.93 months. The average annual cost for a family shelter stay calculated  $363 * \$150 = \$54,450$ . See Q1 2019 DHCD Emergency Assistance Report; Q2 2019 DHCD Emergency Assistance Report; Q3 2019 DHCD Emergency Assistance Report; Q4 2019 DHCD Emergency Assistance Report.

<sup>65</sup> Massachusetts spends \$129,302,014 on family foster care annually; there are 6,118 children in the foster care system; and 29% of foster care spending by the Commonwealth is reimbursed by the federal government. Note that there are three types of foster care funded by the Commonwealth, of which family foster care is only one. The others are “comprehensive foster care” and “congregate foster care.” Family foster care is the least costly of these types of foster care, meaning that these estimates of foster care cost savings due to legal assistance are conservative. See “Child Welfare Agency Spending in Massachusetts,” *Child Trends*, December 2018, pp. 5–6; “8 Graphics That Show the Shape of the Foster Care System,” *Boston Globe*, October 18, 2016, available at <https://www.bostonglobe.com/metro/2016/10/18/graphics-that-show-shape-foster-care-system-mass/klsHY2a9J2WwAHhmPh5Z4L/story.html>; “Massachusetts Department of Children & Families Quarterly Profile -- FY’2020,” Massachusetts Department of Children and Families, July–September 2019, available at <https://www.mass.gov/doc/area-profile-fy2020-q1-0/download>, at line item 21.

<sup>66</sup> Calculated as  $11.93 * \$2,501 = \$29,847$ .

**Table 9  
Total Foster Care Costs**

Number of families kept out of the shelter system due to full legal representation	[1]	692
Percentage of homeless families whose children are placed in the foster care system	[2]	20%
Number of families kept out of the foster care system due to full legal representation	[3]=[1]*[2]	138
Average monthly foster care cost in Massachusetts for two children	[4]	\$ 2,501
Average monthly length of family shelter stay in a year	[5]	11.93
Annual per-family cost to keep children of homeless families in the foster care system	[6]=[4]*[5]	\$ 29,847
<b>Annual total foster care cost savings to the Commonwealth due to full legal representation</b>	<b>[3]*[6]</b>	<b>\$ 4,133,261</b>

**e. Summary of costs and net cost savings**

In summary, we estimate that the cost of providing full legal representation for eligible eviction cases is \$26.29 million, while the minimum cost savings are \$63.02 million. Specifically, we quantify three cost savings categories, including shelter cost, health care cost, and foster care cost. The majority (64%) of cost savings come from shelter cost. In other words, every dollar invested in the program can potentially save at least \$2.40 in costs that the Commonwealth will not have to incur on an annual basis.

**Table 10  
Summary of Total Net Cost Savings**

<b>Estimated Total Cost Savings to the Commonwealth</b>		
Annual shelter cost savings due to full legal representation	[1]	\$41,042,804
Annual health care cost savings due to full legal representation	[2]	\$17,840,233
Annual foster care cost savings due to full legal representation	[3]	\$4,133,261
<b>Estimated Total Annual Cost Savings Due to Full Legal Representation</b>	<b>[4] = [1]+[2]+[3]</b>	<b>\$63,016,298</b>
<b>Estimated of Cost to the Commonwealth</b>	<b>[5]</b>	<b>\$26,294,283</b>
<b>Net Cost Savings (conservative estimate)</b>	<b>[6]=[4]-[5]</b>	<b>\$36,722,015</b>
<b>Cost Savings per Dollar Spent (conservative estimate)</b>	<b>[7]=[4]/[5]</b>	<b>\$2.40</b>

**IV. Cost Savings Not Quantified Given Available Data and Additional Parties that Would Benefit from Cost Savings Due to Full Legal Representation in Eviction Cases**

In addition to the cost savings discussed in Section II.d, there are benefits to the Commonwealth from providing full legal representation in eviction cases that are difficult to quantify within a given fiscal year due to lack of available data, and because many of these benefits would be realized beyond the fiscal year. Here, we discuss additional cost savings and benefits to the Commonwealth that cannot be included in the framework outlined above. We also highlight additional parties that could benefit from cost savings due to full legal representation in summary process cases, such as the federal government, municipalities,

school districts, sheriffs' departments, constables' offices, and property owners.<sup>67</sup> For this reason, the cost savings outlined above underestimate the true benefit of providing legal assistance in eviction cases.

**a. Reduction in schools' educational and behavioral support costs for children experiencing homelessness**

Evictions are more prevalent among households with children. A study by Matthew Desmond, Professor of Sociology at Princeton University, found that when controlling for race and rental arrears, the probability of households with children receiving an eviction judgment is 16–17% higher than those without children.<sup>68</sup> It has been demonstrated that evictions have an adverse impact on parenting stress and child health.<sup>69</sup>

Data on the number of children experiencing homelessness specifically due to an eviction, and the associated costs, are limited. Nonetheless, since evictions are associated with increased instances of homelessness, it can be reasonably assumed that some percentage of children experiencing homelessness in Massachusetts are homeless due to a recent eviction. Homelessness in schools is associated with both academic and behavioral issues. In 2018, the Massachusetts Department of Elementary and Secondary Education found that 24,777 public school students experienced homelessness.<sup>70</sup> Data from Boston Public Schools demonstrate a significant difference in test scores between students experiencing homelessness and housed students. On the state's standardized Massachusetts Comprehensive Assessment System (MCAS) exams, 32.9% fewer students experiencing homelessness perform in the proficient or advanced range in the math section than their housed peers, and 24.2% fewer perform in the proficient or advanced range in the science portion of the test than their housed peers.<sup>71</sup> Homelessness among children is also associated with behavioral issues in school. One study of children in Worcester, Massachusetts, found that, even compared to housed children from low-income, single-parent, and female-headed families, children in similar situations that experience homelessness have more internalizing problem behaviors, such as social withdrawal and loneliness.<sup>72</sup>

Children facing academic and behavioral challenges in schools require greater support and assistance, which are in turn funded by both the Commonwealth and individual school districts. Therefore, it is likely that a reduction in evictions would create cost savings to both school districts and the Commonwealth associated with both academic and behavioral support services in schools.

---

<sup>67</sup> The federal government is likely to benefit from cost savings due to full legal representation in summary process cases due to the reduced cost of social programs that are funded (at least in part) by the federal government. For example, as discussed in Section III.d.ii, we estimate the federal government will save approximately \$17.4 million in health care costs.

<sup>68</sup> Desmond, Matthew, et al., "Evicting Children," *Social Forces*, Vol. 92, No. 1, September 2013, pp. 303–327, at p. 317.

<sup>69</sup> Desmond, Matthew, and Rachel Tolbert Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces*, Vol. 94, No. 1, September 2015, pp. 295–324, at p. 296.

<sup>70</sup> Massachusetts Department of Elementary and Secondary Education, "Homeless Student Program Data 2018-2019," available at [https://mahomeless.org/images/Ed\\_Stability\\_Data\\_Report\\_2018-19.pdf](https://mahomeless.org/images/Ed_Stability_Data_Report_2018-19.pdf).

<sup>71</sup> Boston Public Schools Student Information System, 2018.

<sup>72</sup> Buckner, John C., et al., "Homelessness and Its Relation to the Mental Health and Behavior of Low-Income School-Age Children," *Developmental Psychology*, Vol. 35, No. 1, 1999, pp. 246–257, at pp. 247, 249.

## **b. Reduction in education delay and drop-out rates for children**

As discussed above, approximately 15% of evicted families end up in the shelter system. In addition to an increased likelihood that the children in these families will be placed in the foster care system, it has been observed that children experiencing homelessness have a significantly reduced rate of high school graduation. According to a 2010 fact sheet from the National Center on Family Homelessness, the high school graduation rate for children experiencing homelessness is less than 25%,<sup>73</sup> compared to the 74% graduation rate for low-income children in Massachusetts in 2013.<sup>74</sup>

It is well documented that average fiscal contributions of 18–64 year olds with a high school diploma far exceed the fiscal contributions of those that did not graduate from high school. These fiscal contributions include higher federal and state tax payments, lower cash transfers (e.g., unemployment benefits), lower non-cash transfers (e.g., value of food stamps), and lower jail/prison costs.<sup>75</sup> According to the National Center on Family Homelessness, adults with a high school degree contribute an average of \$127,000 more to society in their lifetime than an adult without a high school degree.<sup>76</sup> Other sources cite even higher differentials between the societal contributions of a high school graduate versus a dropout. For instance, according to the Northeastern University Center for Labor Market Studies, the lifetime net fiscal contribution to society is approximately \$467,023 higher in Massachusetts for a high school graduate compared to a dropout.<sup>77</sup>

While the graduation rate for children experiencing homelessness specifically due to eviction has not been researched, assuming this rate is comparable to children experiencing homelessness overall, it is likely that significant long-term cost savings to the Commonwealth are realized by preventing homelessness in children through eviction prevention.

## **c. Reduction in school transportation costs for children experiencing homelessness**

In FY2020, the Commonwealth budgeted \$11 million to municipalities to transport children experiencing homelessness to school. The amount budgeted by the state does not represent the full costs of transportation of children experiencing homelessness. The remaining amount is funded directly by municipalities.<sup>78</sup> Given that legal assistance reduces the number of families experiencing homelessness, the need for transportation of children experiencing homelessness would be reduced, which results in cost savings to cities and towns. It may further result in cost savings to the Commonwealth if, in future years, it is determined that the annual budgeted transportation reimbursement to municipalities can be decreased.

---

<sup>73</sup> The National Center on Family Homelessness, “America’s Youngest Outcasts: State Report Card on Child Homelessness – Massachusetts” (“America’s Youngest Outcasts”), 2010.

<sup>74</sup> Massachusetts Department of Elementary and Secondary Education, “Cohort 2013 Four-Year Graduation Rates – State Results,” available at <http://www.doe.mass.edu/info/services/reports/gradrates/>.

<sup>75</sup> McLaughlin, Joseph, “The Fiscal Returns to Completing High School and Additional Years of Schooling Beyond High School in the U.S. and Massachusetts” (“The Fiscal Returns to Completing High School”), Northeastern University Center for Labor Market Studies, January 2012, pp. 8–11.

<sup>76</sup> The National Center on Family Homelessness, “America’s Youngest Outcasts.”

<sup>77</sup> McLaughlin, Joseph, “The Fiscal Returns to Completing High School,” p. 15.

<sup>78</sup> Commonwealth of Massachusetts, “FY2020 Final Budget,” available at <https://malegislature.gov/Budget/FY2020/FinalBudget>, line item 7035-0008.



#### **d. Reduction in correctional system costs associated with homelessness**

In the Commonwealth, there are strong associations between the use of emergency shelter facilities and the use of correctional systems. Analysis of data collected by the Suffolk County Sheriff Department found that a record of either unsheltered or sheltered homelessness in the past month is associated with a two-fold increase in incarceration in the following month. Similarly, one in every 10 people entering the homeless assistance system has been in custody within the past year, and the risk of entering the homeless assistance system is highest immediately following release from a house of corrections.<sup>79</sup> Much of the cost to both of these systems comes from “frequent users,” individuals who had more than four custody episodes in a house of corrections, and more than four shelter episodes in the study period. These frequent users represent 9.3% of individuals in the data who both used the shelter system and were once in custody at the Suffolk County House of Correction.<sup>80</sup> While there are no data available that identify the percentage of individuals who are in custody in the correctional systems who have also experienced an eviction, many other studies have found that evictions significantly increase the risk of homelessness. Therefore, it is likely that a reduction in evictions, and an associated reduction in homelessness, would lead to cost savings to the Commonwealth and to municipal sheriffs’ offices.

#### **e. Increased job and family stability**

Evictions are associated with greater employment insecurity and job loss. A study by Matthew Desmond and Carl Gershenson on low-income renters in Milwaukee found that a forced move (most commonly due to an eviction) increased the likelihood of being fired by 11%, compared to identical workers without a forced move.<sup>81</sup> As such, we assume that a decrease in evictions resulting from full legal representation may reduce the incidence of unemployment in the Commonwealth. As people who are unemployed will often utilize state unemployment benefits, this reduction in unemployment associated with legal assistance offers potential cost savings to the Commonwealth.

#### **f. Reduction in use of court staff time and resources**

In 2013, the Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts distributed a survey to judges in Massachusetts. Of the 80 judges who responded to the survey, 72% said that in the past few years, there had been an increase in the cases in which the defendant/respondent was unrepresented. Furthermore, “housing” was the most frequently cited area where lack of representation causes “problems,” such as increased costs to the court system. Finally, 89% of these judges said that lack of legal representation caused the use of the court’s staff time to increase – the most frequently cited negative impact that lack of representation has on the court.<sup>82</sup> Thus, introduction of full legal representation in eviction cases will likely result in greater efficiency and administration of justice and could result in cost savings to the court system.

---

<sup>79</sup> Byrne, T., et al., “Examining the Intersection of Homeless Assistance Service Use and Jail Incarceration in the City of Boston,” City of Boston Department of Neighborhood Development (Forthcoming Publication).

<sup>80</sup> Byrne, T., et al., “Examining the Intersection of Homeless Assistance Service Use and Jail Incarceration in the City of Boston,” City of Boston Department of Neighborhood Development (Forthcoming Publication).

<sup>81</sup> Desmond and Gershenson (2016), p. 55.

<sup>82</sup> Note that other sources state that represented litigants may require more court time than unrepresented litigants. See, for example, Greiner, et al. (2013), p. 909.

## **g. Reduction in other societal costs related to evictions**

In addition, even when an evicted family or individual does not end up experiencing homelessness (i.e., in the shelter system), there are often still societal costs from the eviction. A large proportion of evicted families and individuals end up staying with friends, family, or in “decrepit units in unsafe neighborhoods” for an extended period of time. Congestion at these residences can lead to domestic issues that can lead to lower productivity and impact the Commonwealth’s social services, such as education, health care, foster care, and law enforcement.<sup>83</sup>

Similarly, if a court rules in favor of the plaintiff in an eviction proceeding, consumer reporting agencies may receive “information relating to eviction proceedings.”<sup>84</sup> Studies have shown that a “report containing negative information not only can make securing replacement housing difficult, but also can adversely affect the tenant’s ability to secure employment, insurance, or other business opportunities.”<sup>85</sup> Therefore, eviction may result in other collateral consequences for the Commonwealth, including loss of income tax revenue, use of unemployment benefits, and other well-documented costs related to unemployment.

## **h. Reduction in costs of executing involuntary evictions**

Individuals and families who have been evicted may not immediately vacate the property. In these situations, the local constable is responsible for executing the eviction by removing the evicted tenant’s belongings from the premises. According to the Boston Department of Neighborhood Development, the cost of executing an eviction in subsidized housing is between \$5,500 and \$8,000.<sup>86</sup> These costs include attorney fees, lost rent if a tenant is unable to pay, repairs, move-out costs such as a constable summons, a locksmith, movers, and storage of tenant property, as well as staff time to find and re-occupy the unit.<sup>87</sup> In Boston alone in 2014, there were 1,056 executed evictions in subsidized housing,<sup>88</sup> suggesting that the annual cost of executing subsidized evictions was between \$5.8 million and \$8.5 million. In subsidized evictions, these costs fall on local housing authorities and constables’ offices.

---

<sup>83</sup> See Gudrais, Elizabeth, “Disrupted Lives” (“Many who are evicted end up in shelters or even on the street. When they do find housing, a record of eviction often means they are limited to decrepit units in unsafe neighborhoods. This transient existence is known to affect children’s emotional well-being and their performance in school; Desmond and his research team are also beginning to link eviction to a host of negative consequences for adults, including depression and subsequent job loss, material hardship, and future residential instability. Eviction thus compounds the effects of poverty and racial discrimination. ‘We are learning,’ says Desmond, ‘that eviction is a *cause*, not just a *condition*, of poverty’”) at <http://harvardmagazine.com/2014/01/disrupted-lives>.

<sup>84</sup> Spector, Mary, “Tenant Stories: Obstacles and Challenges Facing Tenants Today,” *The John Marshall Law Review*, Vol. 40, No. 2, 2007, pp. 407–423, at p. 416.

<sup>85</sup> Spector, Mary, “Tenant Stories: Obstacles and Challenges Facing Tenants Today,” *The John Marshall Law Review*, Vol. 40, No. 2, 2007, pp. 407–423, at p. 416; “Evicted for Life: How Eviction Court Records are Creating a New Barrier to Housing,” Massachusetts Law Reform Institute, 2019, available at [https://www.passtheshomesact.org/uploads/2/7/0/4/27042339/evicted\\_for\\_life\\_mlri\\_1.pdf](https://www.passtheshomesact.org/uploads/2/7/0/4/27042339/evicted_for_life_mlri_1.pdf).

<sup>86</sup> Boston Department of Neighborhood Development, “An Action Plan to Reduce Evictions in Boston,” December 2019, p. 16, available at [https://www.boston.gov/sites/default/files/file/2020/01/An\\_Action\\_Plan\\_to\\_Reduce\\_Evictions\\_in\\_Boston\\_%28report%29%20200109\\_1.pdf](https://www.boston.gov/sites/default/files/file/2020/01/An_Action_Plan_to_Reduce_Evictions_in_Boston_%28report%29%20200109_1.pdf).

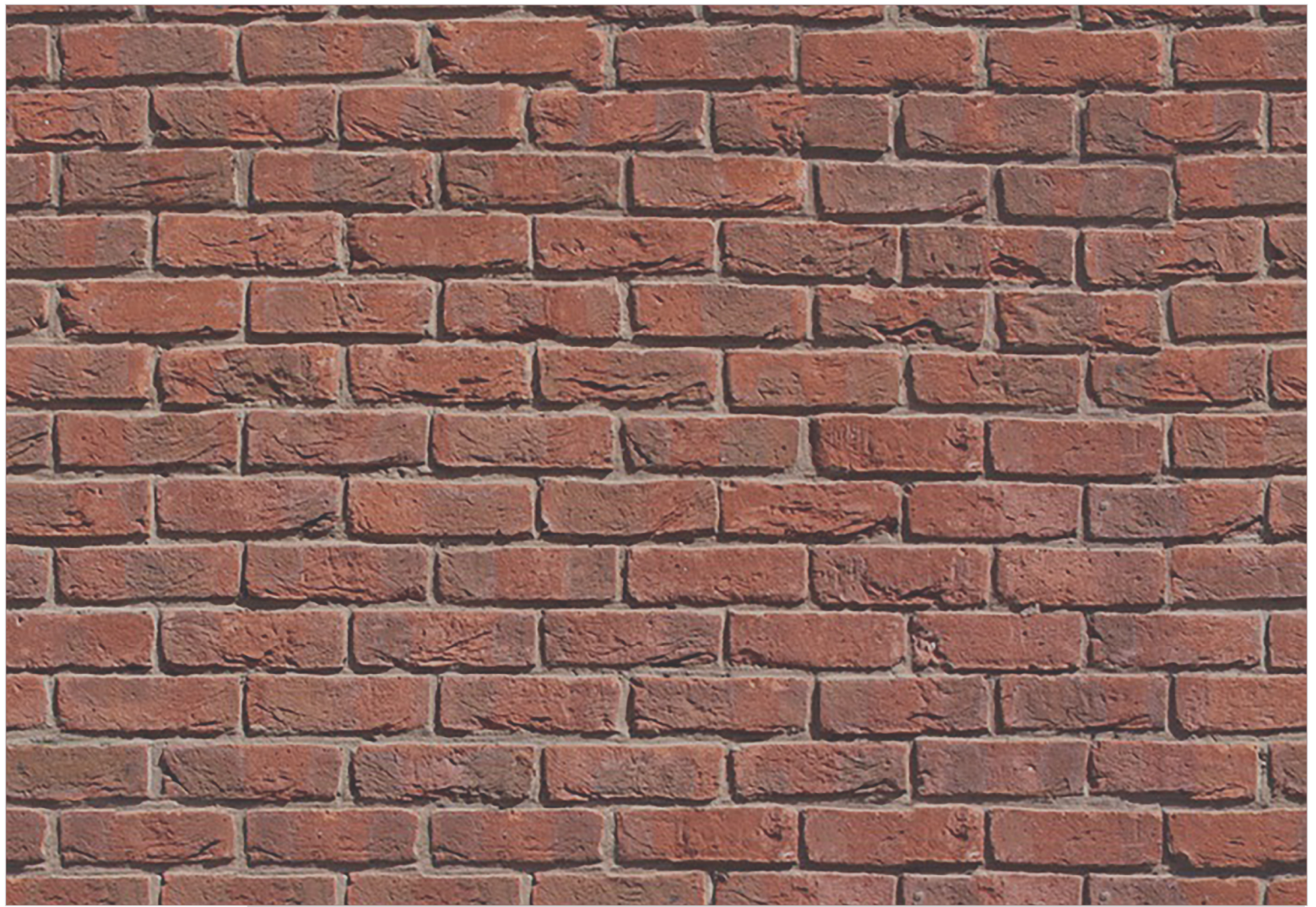
<sup>87</sup> Boston Department of Neighborhood Development, “An Action Plan to Reduce Evictions in Boston,” December 2019, p. 16, available at [https://www.boston.gov/sites/default/files/file/2020/01/An\\_Action\\_Plan\\_to\\_Reduce\\_Evictions\\_in\\_Boston\\_%28report%29%20200109\\_1.pdf](https://www.boston.gov/sites/default/files/file/2020/01/An_Action_Plan_to_Reduce_Evictions_in_Boston_%28report%29%20200109_1.pdf). Typically when a landlord and tenant come to an agreement through an agreement for judgment in which the tenant has the right to reinstate tenancy and stay in the apartment based on certain conditions, the landlord benefits from a repayment plan for rent and also saves on the cost of executing an eviction. See “MLRI 2005 Summary Process Survey,” available at [https://www.masslegalservices.org/system/files/library/2005\\_summary\\_process\\_survey.pdf](https://www.masslegalservices.org/system/files/library/2005_summary_process_survey.pdf).

<sup>88</sup> Boston Department of Neighborhood Development, “Boston Housing Court Data Report: An Overview and Analysis of 2014 Boston Housing Court Data,” Fall 2016, p. 3, available at <https://static1.squarespace.com/static/5c61afb8c2ff616264f89964/t/5cba6802c4966ba200a5d899/1555720195217/2014-Housing-Court-Report-Summary.pdf>.

While there are no available data on the costs of executing evictions on the private market, these costs would fall on private property owners as well as local constables. As full legal representation leads to a decrease in the number of eviction cases in which tenants lose possession of their homes, fewer executed evictions would likely result in cost savings to local housing authorities, private property owners and constables' offices.

## **V. Conclusion**

In conclusion, we have found that the full legal representation will help 15,969 people remain in their homes, and that the monetary benefits of representing eligible beneficiaries in eviction proceedings far outweigh the costs of providing these services. Specifically, we estimate that the total annual cost to represent all eligible beneficiaries in Massachusetts is approximately \$26.29 million, while the conservative estimate of annual net savings from representing this population is approximately \$63.02 million. In other words, for every dollar spent on full legal representation in eviction, the Commonwealth stands to save approximately \$2.40 in costs associated with the provision of other state services, such as emergency shelter, health care, and foster care. Additionally, there are many cost savings to the Commonwealth that cannot be quantified due to a lack of available data. These include cost savings associated with education, correctional facilities, employment and stability, court costs, and costs of executing evictions. Additional parties, such as municipalities, school districts, sheriffs' offices, constables' departments, and property owners stand to benefit from cost savings associated with the introduction of full legal representation in eviction proceedings.



Publication of this report is made possible through a grant from the John A. Perkins Fund of the Boston Bar Foundation.



**Boston Bar**  
ASSOCIATION