

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

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