

May 23, 2023

Honorable James Eldridge
Senate Chair
Joint Committee on the Judiciary

Honorable Michael Day
House Chair
Joint Committee on the Judiciary

**In Support of H.1731, An Act promoting access to counsel
and housing stability in Massachusetts**

Thank you for the opportunity to testify at the Joint Committee on Housing hearing on May 9, 2023. On behalf of the Massachusetts Access to Counsel Coalition, a broad-based coalition of upwards of 240 organizations, **we urge the Judiciary Committee to report favorably H.1731, An Act promoting access to counsel and housing stability in Massachusetts.**

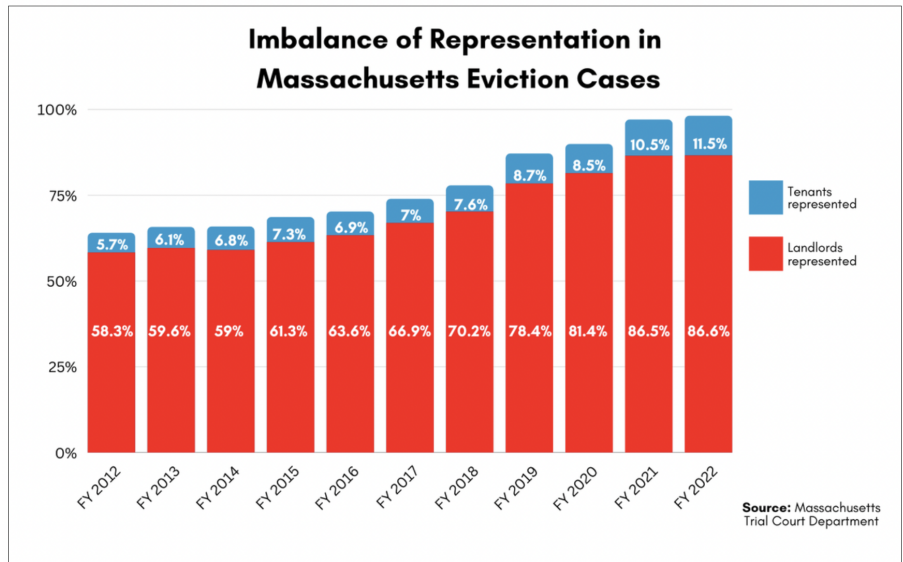
H.1731 would establish a statewide Access to Counsel Program for income eligible low-income tenants and landlord owner occupants in eviction proceedings. Tenants and owner-occupants whose incomes are below 80% of Area Median Income would be eligible for representation. The program would be administered by the Massachusetts Legal Assistance Corporation which would designate non-profit organizations to provide full legal representation.

H. 1731 lead sponsors made important changes to this bill since the last session. To address questions about cost, sustainability and start-up, new language in H. 1731:

- Clarifies that a statewide “Access to Counsel Program” would be “subject to appropriation,” similar to many jurisdictions across the country.¹ The word “right” was changed to “access” to further clarify that the bill does not establish an unequivocal right, but that it is about access to legal representation in eviction proceedings.
- Enables an access to counsel program to be phased-in to provide stakeholders with the time needed to build a sustainable program while incrementally meeting the need. The bill provides that the Massachusetts Legal Assistance Corporation, in consultation with the advisory committee and designated organizations, determine how to phase in an access to counsel program over a period of 5 years.

¹ “Subject to appropriation” or similar language was enacted in the following jurisdictions: Washington state (2021), Maryland (2021), Connecticut (2021), Toledo (2021), Denver (2021), Baltimore (2020), Newark (2018), New York City (2017).

In FY2022, while 86% of landlords were represented in Housing Court, **only 11.5% of tenants were represented.**² This inequity has persisted for years and results in an imbalance of power where landlords have attorneys who know how to navigate a complicated process and a maze of laws and tenants do not. For non-payment cases, the imbalance is even more stark where 89% of landlords were represented and **only 4.3% of tenants were represented.**³



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. 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.

Data demonstrates that access to counsel results in greater housing stability. In Massachusetts, under the COVID Eviction Legal Help Project, a temporary program 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 the cases the tenancy was preserved and in 26% of the cases additional time was received.⁴

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 2019.⁵ Since the introduction of a right to counsel program, default judgments have dropped by 34%.⁶ In 2020, NYC reported that 86% of represented tenants were able to remain in their homes.⁷

² Department of Research and Planning, Massachusetts Trial Court, Jan 11, 2023.

³ Department of Research and Planning, Massachusetts Trial Court, Summary Process: All Residential Eviction Cases, Non-Payment of Rent. Dashboard at: public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtSummaryProcess/SummaryProcess.

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

⁵ NYC Office of Civil Justice 2019 Annual Report, www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_Annual_Report_2019.pdf#page=9

⁶ Ibid.

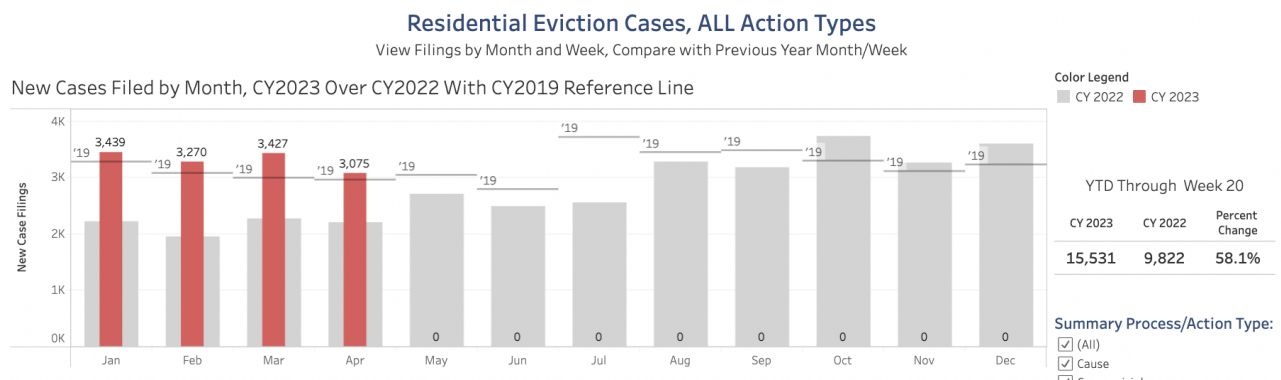
⁷ NYC Office of Civil Justice 2020 Annual Report, www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_Annual_Report_2020.pdf

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.⁸

Further, 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.⁹

For those families 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.

During the state COVID eviction moratorium there was a temporary reduction in the number of eviction cases filed in Massachusetts. But now in 2023, eviction filings in Massachusetts have surpassed the number of pre-pandemic eviction filings, as the table below indicates.



Source: Massachusetts Trial Court

⁸ 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

⁹ 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.

Three states and 15 cities have passed programs to provide tenants with full representation in eviction proceedings. In 2021:

- Washington State passed 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.
- Connecticut became the third state and allocated \$20 million of ARPA funds over two years to launch a program.

In Massachusetts, over 240 organizations, including health care providers, large property owners, municipal officials, teachers, and faith-based organizations, are supporting a statewide access to counsel program and hope that Massachusetts will join others across the country in leveling the playing field for vulnerable tenants.

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 Judiciary 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,

A handwritten signature in cursive script that reads "Annette R. Duke".

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 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 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.