



Mary K. Ryan
Direct Line: (617) 439-2212
Fax: (617) 310-9212
E-mail: mryan@nutter.com

September 25, 2017

Honorable William N. Brownsberger
Senate Chair, Joint Committee on Judiciary
Boston, MA 02133

Honorable Claire D. Cronin
House Chair, Joint Committee on Judiciary
Boston, MA 02133

**Re: In Support of H. 3589, An Act establishing a right to counsel
in certain eviction cases**

Dear Chairs and Members of the Joint Committee on Judiciary:

Thank you for the opportunity to present testimony on H. 3589.

I am familiar with the issues presented by this legislation through my service as former president of the Boston Bar Association (“BBA”), chair of the American Bar Association’s Standing Committee on Pro Bono and Public Service and co-chair of the BBA’s Task Force on the Civil Right to Counsel Background

In 2006, the ABA passed a resolution supporting the right 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. The Task Force was charged with examining the question of how to establish a right to counsel for situations in which a family or individual faces the risk of a loss of shelter, sustenance, or other basic human needs. The original report set out to answer basic questions – in what types of cases do unrepresented litigants forfeit the most important rights? Does providing counsel in such cases preserve those rights and produce a more just outcome? What is the effect on the courts and the parties if low income parties have and exercise a right to counsel? What is the most effective use of counsel? What are the potential cost savings to the Commonwealth and to society if counsel is provided in key areas implicating basic human needs?

Private foundation funding was obtained for two pilot projects involving eviction cases and how important representation is in these types of cases. As part of the projects, we engaged in a cost savings analysis which later was used in connection with legislation in NYC for a right to counsel in eviction cases. The Attorney General was impressed with the work and agreed to fund an additional two pilots in Worcester and Framingham for certain eviction cases. In addition, in 2014, the BBA’s Statewide Task Force to Expand Civil Legal Aid in Massachusetts Report, *Investing in Justice, A Roadmap to Cost-Effective Funding of Civil Legal Aid in MA* reported that if the Commonwealth and its legislature elect to fund representation for only a subset of eligible beneficiaries (the most vulnerable), the cost would be \$9.49 million, while the

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annual savings from representing this subset of the eligible population would be \$28.48 million or a net savings to the state of \$18.99 million. These recent studies have concluded that providing civil legal services will have a positive, net economic impact by improving the efficiency and effectiveness of not only the courts but saving state and local governments millions of dollars in costs from responding to the effects of evictions, homelessness and disruption of family life.

Other studies of Massachusetts courts show that landlords are represented by lawyers in more than two thirds of summary process cases, but only 6 to 10% of tenants are represented.

In *Gideon v. Wainwright*, 372 US 335 (1963), the Supreme Court unanimously ruled that state courts are required under the Sixth Amendment of the Constitution to provide counsel in criminal cases for defendants who are unable to afford their own attorneys. The stakes at issue in some civil matters involving human needs such as shelter can be more serious than minor criminal offenses in which the person enjoys a constitutional right at public expense.

Affording low income litigants with counsel provides equal justice to low income persons entangled in civil proceedings, but unfortunately, and as we all know, legal services organizations in Massachusetts are unable to meet the increased demand for counsel in eviction cases brought against the Commonwealth's most vulnerable, low income families, including those living in public housing units.

For these reasons, I support H. 3589, and urge its adoption. Thank you for your time.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mary K. Ryan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mary K. Ryan

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