

HOUSE No. 1436

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 housing stability and homelessness prevention in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/17/2021</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>	<i>2/25/2021</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/19/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/22/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/22/2021</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>2/22/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/22/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/23/2021</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>2/24/2021</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/24/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/25/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/25/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/25/2021</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>2/25/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/25/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/26/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>

<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/26/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/26/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/26/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/26/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/26/2021</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>2/26/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/26/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/26/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/2/2021</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>2/26/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/7/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/8/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>3/8/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/8/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/8/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/9/2021</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>3/10/2021</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/11/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>3/18/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>3/18/2021</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>	<i>3/18/2021</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>3/19/2021</i>
<i>Jacob R. Oliveira</i>	<i>7th Hampden</i>	<i>3/23/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>3/30/2021</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>4/5/2021</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>4/6/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>4/7/2021</i>
<i>Orlando Ramos</i>	<i>9th Hampden</i>	<i>4/10/2021</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>4/11/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>4/14/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>4/14/2021</i>

HOUSE No. 1436

By Messrs. Rogers of Cambridge and Day of Stoneham, a petition (accompanied by bill, House, No. 1436) of David M. Rogers, Michael S. Day and others for legislation to establish a statewide right to counsel program for evictions to promote housing stability and prevent homelessness. Housing.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act promoting housing stability and homelessness prevention in Massachusetts.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a statewide right to counsel program for evictions to promote housing stability and prevent homelessness and, in response to a housing emergency that the COVID-19 pandemic has exacerbated, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and health.

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 is hereby amended by adding the
2 following 4 sections:

3 Section 14.

4 For purposes of sections 15 and 16 the following terms shall have the following
5 meanings:

6 “Advisory committee”, the committee established pursuant to section 15(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 legal assistance for eligible
12 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 "Right to Counsel Program", a statewide right 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 15.

37 (a) There shall be a statewide Right to Counsel Program in eviction cases to
38 effectuate the purposes of this act to be specifically funded by the general court and administered
39 by the Massachusetts Legal Assistance Corporation.

40

41 (b) With specifically designated state funding, the Massachusetts Legal Assistance
42 Corporation shall establish a Right to Counsel Program to provide free legal assistance and full
43 representation to eligible individuals in covered proceedings.

44

45 (c) The Massachusetts Legal Assistance Corporation shall issue a request for
46 proposal through a public notice for qualified organizations to submit proposals to become
47 designated organizations. The notice must delineate an open and transparent process for

48 approving requests with input from the advisory committee. All organizations seeking to become
49 designated organizations shall have the right to apply for funding and must identify the
50 geographic area in which they shall represent eligible individuals. A designated organization
51 may contract with partner attorneys to provide legal assistance.

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
64 proposal for a qualified legal aid organization to coordinate representation of eligible tenants
65 statewide and a request for proposal for a qualified legal aid organization to coordinate
66 representation of eligible owner-occupants. Such organizations shall provide programmatic
67 support and programmatic advocacy in addition to convening statewide trainings and forums for
68 cross-training of attorneys in order to effectuate the purpose of this act.

69 (f) The Massachusetts Legal Assistance Corporation shall be responsible for
70 exercising oversight, implementing fiscal controls, and for all data collection, deliverables, and
71 ongoing programmatic evaluation.

72 (g) The Massachusetts Legal Assistance Corporation shall appoint an advisory
73 committee with fifteen members from diverse regions of the Commonwealth that includes, but is
74 not limited 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 demonstrated commitment to homelessness prevention and housing stability. The
77 advisory committee shall advise on matters and policies affecting the Right to Counsel Program
78 and shall be convened by the Massachusetts Legal Assistance Corporation on a regular basis, but
79 no less than twice a year.

80 Section 16.

81 (a) The Massachusetts Legal Assistance Corporation shall submit, with input from
82 the advisory committee, a form to be approved by the Chief Justice of the Supreme Judicial
83 Court shall be used to notify individuals of their potential eligibility for a right to legal counsel in
84 covered proceedings. The supreme judicial court shall consider adopting other forms
85 recommended by the Massachusetts Legal Assistance Corporation, with input from the advisory
86 committee, as needed.

87 (b) Lessors must include or attach the form approved by the supreme judicial court to the
88 notice to quit and summons and complaint for covered proceedings. The trial court shall notify
89 lessors about the required form and lessors' potential eligibility for legal counsel pursuant to this
90 act. The form must be posted on the trial court's website.

91 (c) If an eligible tenant, occupant or owner-occupant did not receive the approved form
92 required pursuant to this section or legal counsel does not have sufficient time to file responsive
93 pleadings, there shall be a reasonable continuation of the proceedings so that the tenant, occupant
94 or owner-occupant can obtain legal assistance to prepare their case.

95 (d) The supreme judicial court shall approve a written waiver form for the trial court to
96 inform eligible individuals about the right to legal counsel in court proceedings in order for
97 eligible individuals to knowingly and voluntarily waive the provisions of this act.

98 SECTION 2. The general court shall appropriate funding for a Right to Counsel Program
99 in the Judiciary budget through a specifically dedicated line-item to effectuate the purposes of
100 this act.

101 SECTION 3. The provisions of this act, unless otherwise expressly provided, shall take
102 effect immediately upon passage.