

HOUSE No. 4360

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 12, 2024.

The committee on The Judiciary to whom was referred the 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, reports recommending that the accompanying bill (House, No. 4360) ought to pass.

For the committee,

MICHAEL S. DAY.

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**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 is hereby amended by adding the
2 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 this chapter, section 19 of chapter
8 139 or similar proceedings, including administrative proceedings, to terminate a mobile or
9 project-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 as providing civil legal assistance and tenant
12 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 or a partner attorney to an eligible individual including all legal advice,
18 advocacy, and assistance associated with representation. Full representation includes, but is not
19 limited to, the filing of a notice of appearance on behalf of the eligible individual in a covered
20 proceeding.

21 "Indigent", a person who is: (i) receiving public assistance pursuant to: (1) aid to families
22 with dependent children pursuant to chapter 118; (2) the emergency aid program for elderly and
23 disabled residents in section 1 of chapter 117A; (3) a veterans' benefits program; (4) Title XVI
24 of the federal Social Security Act; (5) the federal Supplemental Nutrition Assistance Program of
25 7 U.S.C. chapter 51; (6) refugee resettlement benefits; or (7) the federal Medicaid program
26 within 42 U.S.C. section 1396, et seq.; or (ii) earning an income, after taxes, that is 80 per cent or
27 less of the current area median income established annually by the United States Department of
28 Housing and Urban Development; or (iii) unable to pay the fees and costs of the covered
29 proceeding in which the person is a party or is unable to do so without depriving said person or
30 said person's dependents of the necessities of life, including food, shelter and clothing.

31 "Legal counsel" or "counsel", lawyer licensed to practice law in the Commonwealth.

32 "Partner attorney", an attorney employed by or affiliated with a designated organization
33 who agrees to provide full legal representation pursuant to this act.

34 “Access to Counsel Program”, a statewide access to counsel program to provide full legal
35 representation to eligible individuals in covered proceedings to be funded by a specifically
36 dedicated general court appropriation.

37 Section 16.

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

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

44 (c) The Massachusetts Legal Assistance Corporation shall issue a request for proposal
45 through a public notice for organizations to submit proposals to become designated
46 organizations. The notice must abide by all public notice requirements and delineate an open and
47 transparent process for approving requests with input from the advisory committee. All
48 organizations seeking to become designated organizations shall have the right to apply for
49 funding and must identify the geographic area in which they shall represent eligible individuals.
50 A designated organization may contract with partner attorneys to provide legal assistance and
51 with community organizations to educate and inform tenants about their rights. Such information
52 shall be available in multiple languages to ensure equitable access for linguistic minorities.

53 (d) Designated Organizations shall: (i) have substantial expertise in housing law and
54 landlord and tenant law and substantial experience furnishing free legal assistance to indigent
55 persons; (ii) have a demonstrated track record of serving the low-income community, (ii) have an

56 identified geographic area in which they desire to provide legal representation under this
57 program; (iii) have a plan to reach and provide legal representation to income eligible persons
58 with limited English proficiency; (iv) provide appropriate supervision and training to partner
59 attorneys; (v) incorporate paralegals, legal interns or law students, where possible, to be
60 supervised by legal counsel; and (vi) satisfy other criteria established the Massachusetts Legal
61 Assistance Corporation with input from the advisory committee.

62 (e) The Massachusetts Legal Assistance Corporation shall issue a request for proposal for
63 designated organizations to coordinate representation of eligible tenants statewide and of eligible
64 owner-occupants. Such organizations shall provide statewide programmatic support and
65 programmatic advocacy in addition to convening statewide trainings and forums for cross-
66 training of attorneys in order to effectuate the purpose of this act.

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

70 (g) The Massachusetts Legal Assistance Corporation shall appoint an advisory committee
71 with fifteen members from diverse regions of the Commonwealth that includes, but is not limited
72 to, low-income tenants, low-income owner-occupants, non-profit community-based
73 organizations, statewide advocacy organizations, and municipal officials. Each member shall
74 have a demonstrated commitment to homelessness prevention and housing stability. The
75 advisory committee shall advise on matters and policies affecting the Access to Counsel Program
76 and shall be convened by the Massachusetts Legal Assistance Corporation on a regular basis, but
77 no less than twice a year.

78 (h) The Massachusetts Legal Assistance Corporation, in consultation with the advisory
79 committee and designated organizations, shall determine how to phase in the access to counsel
80 program over a period of 5 years.

81 Section 17.

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

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

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

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

99 SECTION 2. The general court shall, subject to appropriation, fund an Access to Counsel
100 Program in the Judiciary section of the budget through a specifically dedicated line-item to be
101 administered by the Massachusetts Legal Assistance Corporation to effectuate the purposes of
102 this act.

103 SECTION 3. The provisions of this act, unless otherwise expressly provided, shall take
104 effect 1 year after passage.