

SENATE No. 2785

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 through a right to counsel pilot program in Massachusetts in response to the COVID-emergency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>6/15/2020</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>6/15/2020</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>6/17/2020</i>
<i>Maria Duaiame Robinson</i>	<i>6th Middlesex</i>	<i>6/17/2020</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>6/17/2020</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>6/17/2020</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>6/17/2020</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>6/17/2020</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>6/17/2020</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>6/17/2020</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>6/18/2020</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>6/18/2020</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>6/18/2020</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>6/18/2020</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>6/18/2020</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>6/18/2020</i>

<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>6/18/2020</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>6/18/2020</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>6/18/2020</i>

SENATE No. 2785

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 2785) (subject to Joint Rule 12) of Sal N. DiDomenico, Patricia D. Jehlen, Brendan P. Crighton, Denise Provost and other members of the General Court for legislation to promote housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act promoting housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency.

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

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. For purposes of sections 15, 16, 17, and 18 the following terms shall have the
4 following meanings:

5 “Advisory committee”, the committee established pursuant to section 16(a).

6 “Covered proceeding”, an action brought pursuant to chapter 239, chapter 139 section 19,
7 or similar proceedings.

8 “Coordinator”, the coordinator of the program.

9 “Designated organization”, a not-for-profit organization that is designated by the
10 coordinator to contract to provide legal assistance for eligible individuals.

11 "Eligible individual", a party in a covered proceeding who is an indigent: (i) tenant or
12 occupant of any premises rented or leased for dwelling purposes; or (ii) owner occupant of a 1-
13 family or 2-family dwelling that is their sole dwelling and located in the Commonwealth.

14 “Full legal representation”, ongoing legal representation provided by legal counsel in a
15 designated organization to an indigent eligible individual and all legal advice, advocacy, and
16 assistance associated with representation. Full representation includes, but is not limited to, the
17 filing of a notice of appearance on behalf of the indigent eligible individual in a covered
18 proceeding.

19 “Indigent”, a person who is: (i) receiving public assistance pursuant to: (1) aid to families
20 with dependent children pursuant to chapter 118; (2) the emergency aid program for elderly and
21 disabled residents pursuant to section 1 of chapter 117A; (3) a veterans’ benefits program; (4)
22 Title XVI of the federal Social Security Act; (5) supplemental nutrition assistance program,
23 pursuant to 7 U.S.C. chapter 51; (6) refugee resettlement benefits; or (7) medicaid, pursuant to
24 42 U.S.C. section 1396, et seq.; or (ii) earning an income, after taxes, that is 200 per cent or less
25 of the current poverty guidelines established annually by the United States Department of Health
26 and Human Services; or (iii) unable to pay the fees and costs of the covered proceeding in which

27 the person is a party or is unable to do so without depriving said person or said person's
28 dependents of the necessities of life, including food, shelter and clothing.

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

30 "Partner Attorney", An attorney employed by or affiliated with a designated organization
31 who agrees to provide full legal representation pursuant to this act.

32 "Program", A statewide right to counsel pilot program to provide full legal representation
33 to eligible individuals in covered proceedings pursuant to Section 15.

34 Section 15.

35 (a) There shall be a statewide right to counsel program to effectuate the purposes of this
36 act to be established and implemented within the executive office of housing and economic
37 development.

38 (b) Pursuant to this act and subject to funding from COVID relief or other funds there
39 shall be at least two right to counsel pilot programs in each of the six divisions of the housing
40 court, as defined under section 1 of chapter 185C.

41 (c) Pilot programs shall be established based on indicators related to the devastation that
42 COVID-19 has on renters and lower income homeowners including: high concentration of
43 renters, high concentration of poverty, high rates of COVID-19, high rates of COVID-related
44 unemployment, high concentrations of people of color, and other indicators.

45 Section 16.

46 (a) There shall be a program advisory committee based on recommendations by the
47 Chairs of the General Court’s Joint Committee on Housing and Joint Committee on the Judiciary
48 to the coordinator that includes regional legal aid organizations that represent low income tenants
49 and legal aid organizations that represent low income homeowners, non-profit community and
50 advocacy organizations, and state and municipal officials who seek to stabilize housing and
51 prevent homelessness.

52 (b) The advisory committee shall advise the coordinator on matters and policies affecting
53 the program, including but not limited to: (i) criteria to select designated organizations as pilots
54 based on indicators in 15(c), (ii) an implementation schedule, (iii) community outreach to
55 effectuate the purposes of this act, (iv) requirements for collection of eviction data among
56 designated agencies, including but not limited to estimated number of individuals receiving
57 assistance, demographics, and case outcomes; (v) court procedures to effectuate the purposes of
58 this act, and (vi) evaluation of the program to measure a range of outcomes, which may include
59 the preservation of tenancies, housing stability including the successful relocation of tenants in a
60 manner that preserves housing stability, and terms of agreements signed by landlords and
61 tenants.

62 Section 17.

63 (a) The coordinator shall issue a request for proposal for qualified organizations to submit
64 proposals to become a designated organization. Organizations seeking to become designated
65 organizations shall identify the geographic area in which they shall represent eligible individuals.
66 A designated organization may contract with partner attorneys to provide legal assistance.

67 (b) The coordinator, with recommendations from the advisory committee pursuant to
68 indicators in 15(c), shall designate organizations to provide legal assistance in accordance with
69 this act. Designated organizations shall: (i) have substantial expertise in housing law and
70 landlord and tenant law and substantial experience furnishing free legal assistance to eligible
71 individuals; (ii) identify the geographic area in which they shall provide services based on
72 indicators in 15(c); (iii) a plan to reach and provide services to persons with limited English
73 proficiency; (iv) provide appropriate supervision and training; and (v) satisfy other criteria
74 established by the advisory committee. Nothing herein shall interfere with any legal counsel
75 carrying out their professional responsibilities to their clients as established in the canons of
76 ethics and the code of professional responsibility adopted by the supreme judicial court.

77 (c) The coordinator shall convene statewide trainings and forums for cross training of
78 attorneys and ongoing evaluation of the program with all designated organizations.

79 (d) The employees of an organization designated by the coordinator pursuant to this act
80 shall not be considered to be or have any rights as state employees.

81 Section 18.

82 (a) A form recommended by the advisory committee and approved by the chief justice of
83 the supreme judicial court shall be used to notify individuals of their eligibility for a right to legal
84 counsel in covered proceedings in court and the availability of legal and housing stability
85 assistance. The supreme judicial court shall consider adopting other forms recommended by the
86 advisory committee as needed.

87 (b) Lessors must include or attach the form approved by the supreme judicial court to the
88 summons and complaint for covered proceedings within the geographic area to be covered by the

89 designated organization. The housing court department shall notify lessors about the required
90 form and lessors' potential eligibility for legal counsel pursuant to this act. The form must be
91 posted on the Trial Court's website.

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

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

99 (e) The coordinator, with recommendations from the advisory committee shall adopt
100 other forms as needed.

101 SECTION 2. The provisions of this act, unless otherwise expressly provided, shall take
102 effect immediately upon passage.

103 SECTION 3. The executive office of housing and economic development shall hire the
104 coordinator within 25 days of passage of this act.

105 SECTION 4. Members of the advisory committee shall be convened by the coordinator
106 within 45 days of the passage of this act and for the duration of the pilot on a regular basis.

107 SECTION 5. The coordinator shall issue a request for proposals for the pilot within 50
108 days of the passage of this act and approve designated organizations as soon as is practicable.

109 SECTION 6. The chief justice of the supreme judicial court shall issue a form as
110 prescribed in Section 18(a) within 60 days of the passage of this act.

111 SECTION 7. Within 365 days of approval of designated organizations to implement pilot
112 programs, the coordinator, with the advisory committee, shall complete an evaluation report with
113 recommendations which shall be delivered to the Chairs of the General Court's Joint Committee
114 on Housing and Joint Committee on the Judiciary and the Secretary of Housing and Economic
115 Development.