

An Initiative Petition for a Law Relative to the Right to Counsel in Eviction Proceedings

Be it enacted by the People, and by their authority:

SECTION 1. Chapter 239 of the General Laws is hereby amended by adding the following sections:

Section 15.

For purposes of sections 16 and 17 the following terms shall have the following meanings:

"Advisory committee", the committee established pursuant to section 16(g).

"Covered proceeding", an action brought pursuant to chapter 239, chapter 139 section 19, or similar proceedings, including administrative proceedings to terminate a mobile or project-based housing subsidy or public housing tenancy.

"Designated organization", a not-for-profit organization that is designated by the Massachusetts Legal Assistance Corporation to contract to provide legal assistance for eligible individuals.

"Eligible individual", a party in a covered proceeding who is an indigent: (i) tenant or occupant of any premises rented or leased for dwelling purposes; or (ii) owner-occupant of a 1-to-3-family dwelling that is their sole dwelling and located in the Commonwealth.

"Full legal representation", ongoing legal representation provided by legal counsel in a designated organization to an eligible individual including all legal advice, advocacy, and assistance associated with representation. Full representation includes, but is not limited to, the filing of a notice of appearance on behalf of the eligible individual in a covered proceeding.

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

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

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

"Right to Counsel Program", a statewide right to counsel program to provide full legal representation to eligible individuals in covered proceedings.

Section 16.

(a) There shall be a statewide Right to Counsel Program in eviction cases to effectuate the purposes of this act to be administered by the Massachusetts Legal Assistance Corporation.

(b) The Massachusetts Legal Assistance Corporation shall establish a Right to Counsel Program to provide free legal assistance and full representation to eligible individuals in covered proceedings.

(c)The Massachusetts Legal Assistance Corporation shall issue a request for proposal through a public notice for qualified organizations to submit proposals to become designated organizations. The notice must delineate an open and transparent process for approving requests with input from the advisory committee. All organizations seeking to become designated organizations must identify the geographic area in which they shall represent eligible individuals. A designated organization may contract with partner attorneys to provide legal assistance.

(d)Designated organizations shall: (i) have substantial expertise in housing law and landlord and tenant law and substantial experience furnishing free legal assistance to eligible individuals; (ii) have a demonstrated track record of serving the low-income community, (ii) identify the geographic area in which they shall provide legal representation; (iii) have a plan to reach and provide legal representation to income eligible persons with limited English proficiency; (iv) provide appropriate supervision and training; (v) incorporate paralegals, legal interns or law students, where possible, to be supervised by legal counsel and (vi) satisfy other criteria established the Massachusetts Legal Assistance Corporation with input from the advisory committee. Nothing herein shall interfere with any legal counsel carrying out their professional responsibilities to their clients as established in the canons of ethics and the code of professional responsibility adopted by the supreme judicial court.

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

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

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

Section 17.

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

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

(c) If an eligible tenant, occupant or owner-occupant did not receive the approved form required pursuant to this section or legal counsel does not have sufficient time to file responsive pleadings, there

shall be a reasonable continuation of the proceedings so that the tenant, occupant or owner-occupant can obtain legal assistance to prepare their case.

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

SECTION 2.

The provisions of this act shall take effect on January 1, 2023

SECTION 3.

The provisions of this law are severable, and if any clause, sentence, paragraph or section of this law or an application thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid and such clause, sentence, paragraph, section or application shall be reformed and construed so that it would be valid to the maximum extent permitted.

Signature *Alex Desjardis* Address 46 Baker Rd Everett MA 02149

Signature *Harold Hubbsch* Address 11 Linden place #2 Boston

Signature _____ Address _____

Signature _____ Address _____

Signature _____ Address _____