

Right to Counsel Coalition's Proposed Bill

Three Right to Counsel (RTC) bills were filed in the 2019-20 Massachusetts legislative session (S. 913, H. 3456, and H. 1537). Since these bills were drafted, New York City and 5 other cities have passed similar legislation. Building upon lessons learned by advocates in Massachusetts and places implementing right to counsel, the Massachusetts RTC Coalition recommends drawing together provisions from all the bills, consistent with the guiding principles adopted by the Coalition.*

In November 2019, the Coalition submitted a bill to the Judiciary Committee to reconcile the different RTC bills. The Coalition's proposed bill provides:

1. Who is eligible for assistance?

Low-income tenants and occupants facing an eviction who are at or below 200% of poverty and owner-occupants of 1 or 2-family homes seeking possession of their own and only home who are at or below 200% of poverty.

2. What kinds of proceedings are covered?

Evictions and similar proceedings in court. Evictions after foreclosures are also covered.

3. What is provided?

Full legal representation for eligible individuals facing eviction in court. The bill also calls for building the capacity of existing organizations to prevent evictions and homelessness and promote housing stability, including proactive education and outreach, housing stabilization assistance, and “upstream” support before court.

4. Who implements the program?

An Office of Civil Justice would be established in the existing Executive Office of Housing and Economic Development, the state agency that focuses on housing stability. The Office of Civil Justice would implement and monitor a right to counsel and related housing stabilization and homeless prevention services to create a continuum of coordinated and effective assistance. The Office of Civil Justice would be advised by a Civil Justice Committee.

* The Guiding Principles appear on the Commission's website at:
https://www.massrtc.org/uploads/2/7/0/4/27042339/rtc_principles_supporters-12-10-19.pdf

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5. What is the role of the Civil Justice Committee?

The Civil Justice Committee is charged with holding regional hearings to allow for input from all stakeholders as it develops a statewide plan. The purpose of the initial plan will be to **phase in** full legal representation. The Committee would then study and make recommendations to promote housing stabilization and homelessness prevention.

6. Who is on the Civil Justice Committee?

The Civil Justice Committee would be chaired by the Undersecretary of the Department of Housing and Community Development and include the Chief Justice of the Housing Court, and representatives of the Access to Justice Commission, Citizens' Housing & Planning Assoc., Committee for Public Counsel Services, four regional legal aid organizations selected by Mass. Legal Assistance Corporation, Mass. Coalition for the Homeless, Mass. Union of Public Housing Tenants, Mass. Chapter of the National Association of Housing & Redevelopment Officials, Mass. Law Reform Institute, Mass. Assoc. of Community Action Programs, Regional Housing Network of Mass., and Volunteer Lawyers Project.

7. Who can be appointed as counsel?

The Office of Civil Justice will designate non-profit organizations to provide full legal representation. Such organizations must have a proven track record of effectiveness and substantial expertise in housing law. The Office of Civil Justice may also designate non-profits or public entities with proven track records to provide housing stability assistance **before court**.

8. How do people find out about the right?

A form approved by the Supreme Judicial Court would inform the occupant of the right to counsel. This form should be attached to the first document an occupant receives pertaining to the termination of the tenancy.

9. When would RTC take effect?

A Coordinator would be hired within 45 days of passage of the Act. The Civil Justice Committee would be appointed within 90 days of passage and must develop a plan to phase in RTC and designate organizations to provide full legal representation within 1 year of passage of the Act. Within 18 months of passage, the Committee shall develop a plan for the provision of housing stability and pre-court eviction assistance.

10. Funding.

The financial support for RTC must come from new and separate funding that does not interfere with existing funding for legal services or existing organizations currently providing housing stability assistance.