



Investing in Fairness, Justice and Housing Stability

Assessing the Benefits of Full Legal
Representation in Eviction Cases in Massachusetts
A Report of the Boston Bar Association



BOSTON BAR ASSOCIATION



ANALYSIS GROUP

ASSESSING THE BENEFIT OF FULL LEGAL REPRESENTATION IN EVICTION CASES IN MASSACHUSETTS

JUNE 2020 STUDY UPDATE

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Introduction

In 2014, the Boston Bar Association State Task Force to Expand Civil Legal Aid in Massachusetts issued its seminal report entitled *Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts*. The report made a compelling case that increased appropriations for civil legal aid would result in significant savings to the state by way of reduced expenditures in areas such as housing and domestic violence, among others.

The Task Force report relied, in part, on a study by Analysis Group, a nationally known economic consulting firm. Its thorough and well-founded study determined that, in 2014, for every dollar spent by the state for civil legal aid in eviction and foreclosure matters, the state would save \$2.69 in costs associated with emergency shelters, health care, and other services as a result of evictions.

In a growing movement around the country, six cities have now provided a right to counsel in eviction cases to combat homelessness and its attendant costs. The Massachusetts Right to Counsel Coalition, coordinated by the Massachusetts Law Reform Institute, is advocating for legislation to provide for a right to counsel in eviction cases here in Massachusetts. In connection with this effort, Analysis Group agreed to update its 2014 study to assess the financial benefits to the state of providing full legal representation to indigent persons in eviction matters. As you will see, its team of researchers again produced, on a pro bono basis, a thorough and well-documented study, for which the Boston Bar Association is very grateful.

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Civil Legal Aid in Massachusetts

Abstract

In 2014, Analysis Group published a report (“2014 Report”) analyzing the monetary effects on the Commonwealth of Massachusetts (“the Commonwealth”) of providing full legal representation to eligible beneficiaries in housing matters. This report updates the cost estimates and cost savings estimates for eviction cases from the 2014 Report. Further, the present report builds on the 2014 Report by including discussions of cost savings categories that currently cannot be quantified due to a lack of available data. It also identifies additional cost savings to municipalities, school districts, sheriffs’ departments, and private property owners.

We find that by providing full legal representation in eviction proceedings, the Commonwealth ultimately saves on costs associated with homelessness, including emergency assistance and shelter, health care, and foster care. Specifically, in the updated report we estimate that full legal representation in eviction cases would cost the Commonwealth \$26.29 million, while the cost savings associated with such representation are estimated to be \$63.02 million. For every dollar spent on full legal representation in eviction cases, the Commonwealth saves approximately \$2.40 on the direct costs associated with homelessness.

Given the limitations in analyzing some of the societal costs associated with evictions, these estimates are likely to be conservative and underestimate the true benefit to the Commonwealth of providing full legal representation in eviction matters, and the true benefit to families and individuals in the Commonwealth who face eviction without legal representation.

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Assessing the Benefit of Full Legal Representation in Eviction Cases

by Martha Samuelson,¹ Brian Ellman,¹ Ngoc Pham,¹ Emma Dong,¹ Samuel Goldsmith,¹ David Robinson²

I. Executive Summary

In 2019, there were 39,594 eviction cases filed in Massachusetts courts, and 91.3% of the tenants in those cases did not have legal representation. A growing body of research has found that evictions are associated with negative outcomes for tenants leading to homelessness, poor mental and physical health, unemployment, and family instability. Given these negative outcomes and the associated costs to families, individuals, and the Commonwealth of Massachusetts, evictions are a significant social issue in the Commonwealth.

This report estimates the net economic benefit to the Commonwealth of providing full legal representation to eligible beneficiaries in eviction cases. We estimate that the annual cost of full legal representation for eligible cases is \$26.29 million. This cost estimate is based on an estimated number of 22,454 eviction cases that would receive free full legal representation (based on income eligibility criteria), an average cost of \$1,151 per case, and an implementation cost of \$0.45 million. We estimate that a minimum of 15,969 people would remain in their homes each year due to the introduction of full legal representation in eviction cases.

We estimate that the minimum annual cost savings of full legal representation to the Commonwealth is \$63.02 million. The cost savings comprise three categories: (1) \$41.04 million in cost savings from reduced emergency shelter costs; (2) \$17.84 million in cost savings from reduced health care costs; and (3) \$4.13 million in cost savings from reduced foster care costs. As a result, every dollar invested in the program can potentially save at least \$2.40 in annual costs to the Commonwealth.

In addition to these categories of cost savings, there are benefits to the Commonwealth from providing full legal representation in eviction cases that are difficult to quantify due to lack of available data, such as higher educational achievement; increased job, family, and housing stability; and improved administration of justice. There are also sources of cost savings not quantified in our analysis, including the reduction of:

1. schools' educational and behavioral support costs for children experiencing homelessness;
2. education delay and drop-out rates for children;
3. schools' transportation costs for children experiencing homelessness;
4. correctional system costs associated with homelessness;
5. use of court staff time and resources;
6. costs of executing involuntary evictions; and
7. other societal costs related to evictions.

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Our analysis is limited to cost savings to the Commonwealth. There are also many additional parties that are likely to benefit from cost savings due to full legal representation in eviction cases, such as the federal government, municipalities, school districts, sheriffs' departments, constables' offices, and property owners.

II. Overview

The growing body of literature on evictions has found that evictions are associated with negative outcomes for tenants. For example, studies have found that evictions increase the probability of applying to homeless shelters and the time spent in homeless shelters;³ that both evictions and the threat of eviction are associated with negative mental and physical health outcomes;⁴ and that evictions are associated with greater material hardship⁵ and employment insecurity.⁶ Studies have also found that evictions disproportionately impact children, women, and people of color.⁷ Given these negative outcomes, evictions are an important social issue in the Commonwealth.

In 2019, there were 39,594 eviction cases filed in Massachusetts courts.⁸ Over the past 30 years, over one million eviction cases have been filed in Massachusetts.⁹ Many of these cases resulted in judgments or agreements for judgments that caused individuals and families to lose possession of their homes.¹⁰ Along with formal eviction cases filed in court, a growing body of research suggests that the incidence of formal eviction filings significantly undercounts the instances in which low-income tenants are forced to leave their homes.¹¹

³ Collinson, Robert, and Davin Reed, "The Effects of Evictions on Low-Income Households," December 2018 ("Collinson and Reed (2018)"), p. 3, available at https://robcollinson.github.io/RobWebsite/jmp_rcollinson.pdf.

⁴ Vásquez-Vera, Hugo, et al., "The Threat of Home Evictions and its Effects on Health Through the Equity Lens: A Systematic Review," *Social Science & Medicine*, Vol. 175, 2017, pp. 199–208.

⁵ Desmond, Matthew, and Rachel Tolbert Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces*, Vol. 94, No. 1, September 2015, pp. 295–324.

⁶ Desmond, Matthew, and Carl Gershenson, "Housing and Employment Insecurity among the Working Poor," *Social Problems*, Vol. 63, Issue 1, February 2016, pp. 46–67 ("Desmond and Gershenson (2016)").

⁷ Park, Sandra, "Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women," *ACLU Blog*, March 30, 2017 ("In King County, Washington, ... African-American tenants are nearly four times more likely to have an eviction case filed against them compared to white tenants" and "[the] disparity is even starker for African-American women: They are more than five times as likely to have a filing against them compared to households headed by white men"), available at <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>. See also Desmond, Matthew, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology*, Vol. 118, 2012, pp. 88–133, at p. 91 ("In black neighborhoods [in Milwaukee], women were more than twice as likely to be evicted as men"). See also Smith, Leora, "The Gendered Impact of Illegal Act Eviction Laws," *Harvard Civil Rights-Civil Liberties Law Review*, Vol. 52, Issue 2, 2017, pp. 537–559, at p. 540 (which focuses on New York and Toronto eviction data and marks "a first attempt to quantify a phenomenon that people familiar with public housing evictions already know to be true: that illegal act evictions from public housing disproportionately affect women").

⁸ Commonwealth of Massachusetts, "Massachusetts Trial Courts Summary of Case Filings by Type: FY2015 to FY2019" ("Summary of Case Filings by Type: FY2015 to FY2019"), available at <https://www.mass.gov/info-details/trial-court-statistical-reports-and-dashboards>.

⁹ Commonwealth of Massachusetts, "Annual Reports on the State of the Massachusetts Court System, Fiscal Years 1988 through 2018." Data were not available for certain years for certain courts.

¹⁰ A 2005 survey analyzing 559 Massachusetts summary processes reported that landlords were awarded possession in 76% of the cases, a theme consistently observed in earlier versions of the survey. See Massachusetts Law Reform Institute, "2005 Summary Process Survey – Number 4" ("MLRI 2005 Summary Process Survey"), 2005, available at https://www.masslegalservices.org/system/files/library/2005_summary_process_survey.pdf. See also Massachusetts Access to Justice Commission, "Massachusetts Justice for All Strategic Plan," December 22, 2017, p. 48 ("Under an [agreement for judgment], judgment typically enters for the landlord"), available at <http://www.mass2j.org/a2j/wp-content/uploads/2018/01/Massachusetts-JFA-Strategic-Action-Plan.pdf>.

¹¹ Desmond, Matthew, et al., "Forced Relocation and Residential Instability Among Urban Renters," *Social Service Review*, June 2015, pp. 227–262, at p. 244; Flowers, Andrew, "How We Undercounted Evictions by Asking the Wrong Questions," *FiveThirtyEight*, September 15, 2016, available at <https://fivethirtyeight.com/features/how-we-undercounted-evictions-by-asking-the-wrong-questions/>.

While a majority of plaintiffs, typically landlords, are represented by legal counsel, in 2019 91.3% of tenants in eviction proceedings did not have legal representation.¹² Although a majority of these tenants qualify for free legal assistance,¹³ there is an “acute shortage in resources” for legal aid in housing matters, and more than half of eligible low-income citizens of the Commonwealth are turned away by legal aid agencies due to a lack of resources.¹⁴ Primary research conducted by a team of Harvard University researchers has empirically shown that tenants are substantially more likely to retain possession of their homes when they have access to full legal representation,¹⁵ suggesting that this imbalance of legal representation puts tenants at a disadvantage.¹⁶

For many people, the eviction process results in either substantial worsening of living conditions or homelessness, both of which are associated with increased costs to the Commonwealth. This report updates a 2014 analysis of the estimated economic benefit to the Commonwealth of providing legal representation to eligible parties in eviction cases. The report focuses on the annual costs to the Commonwealth of full legal representation for eviction cases where the defendant’s income falls below 200% of the federal poverty guidelines and the associated annual cost savings of families and individuals that would remain in their homes due to legal assistance. The cost savings highlighted in this report represent only the sheltered homeless population that would avoid homelessness due to legal assistance, and does not seek to quantify cost savings of unsheltered individuals and families or those experiencing severe housing instability. The report also discusses selected cost savings associated with providing full legal representation in eviction cases that cannot be quantified given available data. Further, it highlights additional parties that can benefit from cost savings, such as the federal government, municipalities, school districts, sheriffs’ departments, constables’ offices, and property owners.

The report proceeds in four general steps:

- First, we estimate the number of eviction proceedings in which the tenants may qualify for full legal representation, and calculate the costs associated with providing that legal assistance to all eligible defendants per year.

¹² Massachusetts Housing Court fiscal year 2019 statistics show that 78.4% of plaintiffs are represented in summary process cases versus 8.7% of defendants. Therefore, the percentage of defendants without legal representation is $100\% - 8.7\% = 91.3\%$. Massachusetts Court System, Housing Court Department, “Percent of Self-Represented Litigants in Summary Process Cases Disposed in FY 2019 by Division,” available at <https://www.mass.gov/doc/2019-housing-court-self-represented-represented-litigants-by-court-location/download>.

¹³ Boston Bar Association, “Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts,” (“Investing in Justice”), October 2014, p. 74. (“According to the Massachusetts Legal Assistance Corporation (MLAC), approximately 75% of defendants in eviction cases meet [the criteria for civil legal aid]”), available at <https://bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>.

¹⁴ Massachusetts Access to Justice Commission, “Massachusetts Justice for All Strategic Plan,” December 22, 2017, p. 34, available at <http://www.massa2j.org/a2j/wp-content/uploads/2018/01/Massachusetts-JFA-Strategic-Action-Plan.pdf>. See also Boston Bar Association, “Investing in Justice,” p. 3, available at <https://bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>.

¹⁵ Throughout this report, we refer to “full legal representation” and “legal assistance” interchangeably. These terms mean that a party is fully represented by an attorney, which we distinguish from brief service or limited assistance.

¹⁶ Greiner, D. James, et al., “The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future,” *Harvard Law Review*, Vol. 126, No. 901, February 2013 (“Greiner, et al. (2013)”), p. 903, available at <https://harvardlawreview.org/2013/02/the-limits-of-unbundled-legal-assistance-a-randomized-study-in-a-massachusetts-district-court-and-prospects-for-the-future/>. See also The Supreme Judicial Court Steering Committee on Self-Represented Litigants (of Massachusetts), “Addressing the Needs of Self-Represented Litigants in Our Courts: Final Report and Recommendations of the SJC Steering Committee on Self-Represented Litigants,” November 21, 2008, p. 4 (“the inability of some self-represented litigants to understand and comply with court rules and procedures may make it impossible for their cases, however worthy, to be decided on the merits”).

- Second, we estimate the annual cost savings to the Commonwealth associated with the estimated reduction in sheltered homelessness attributable to providing legal assistance to those eligible defendants.
- Third, we estimate the net savings to the Commonwealth from providing full legal representation to eligible defendants facing eviction.
- Fourth, we discuss additional cost savings that cannot be quantified due to a lack of available data, as well as additional parties that can benefit from cost savings.

Based on our analysis, we conclude that the provision of full legal representation to assist eligible beneficiaries in eviction proceedings is likely to have a net *positive* impact on the Commonwealth’s annual budget. As summarized in Table 1, the estimated annual cost of full legal representation for eligible cases is \$26.29 million, while the minimum annual cost savings of full legal representation is \$63.02 million. Every dollar invested in the program can potentially save *at least* \$2.40 in costs that the Commonwealth will not have to incur in that year.

Table 1
Summary of Estimated Costs and Cost Savings

Estimated Total Cost Savings to the Commonwealth		
Estimated cost to the Commonwealth	[1]	\$26,294,283
Estimated total annual cost savings due to full legal representation	[2]	\$63,016,298
Net cost savings (conservative estimate)	[3]=[2]-[1]	\$36,722,015
Cost savings per dollar spent (conservative estimate)	[4]=[2]/[1]	\$2.40

We note that this analysis is highly conservative because it only quantifies the financial impact of evictions that result in sheltered homelessness. Not all families and individuals experiencing homelessness seek, or are eligible for, emergency shelter, with many finding irregular housing situations such as “couch-surfing” or living in overcrowded conditions. For this reason, this methodology likely underestimates the number of families and individuals who become homeless as the result of an eviction. The estimate also does not attempt to include non-quantifiable costs that are otherwise borne by others (such as federal or local governments). The non-quantified effects can have a substantial economic impact on both the families and the individuals facing eviction and the Commonwealth because deterioration of living conditions can lead to, among other problems, stress, loss of productivity or work altogether, and negative impacts on children and their education.¹⁷ Therefore, the report understates the full savings to the Commonwealth (and more broadly, to society) associated with the provision of full legal representation for eligible defendants in eviction cases.

¹⁷ See Gudrais, Elizabeth, “Disrupted Lives: Sociologist Matthew Desmond studies eviction and the lives of America’s poor” (“Disrupted Lives”), *Harvard Magazine*, January–February 2014 (“Many who are evicted end up in shelters or even on the street. When they do find housing, a record of eviction often means they are limited to decrepit units in unsafe neighborhoods. This transient existence is known to affect children’s emotional well-being and their performance in school; Desmond and his research team are also beginning to link eviction to a host of negative consequences for adults, including depression and subsequent job loss, material hardship, and future residential instability. Eviction thus compounds the effects of poverty and racial discrimination. ‘We are learning,’ says Desmond, ‘that eviction is a *cause*, not just a *condition*, of poverty”), available at <http://harvardmagazine.com/2014/01/disrupted-lives>.

III. Analyzing the Financial Effects of Providing Full Legal Representation in Eviction Cases

a. Assessing the cost of full legal representation for all eligible individuals

We estimate that the total annual cost of providing full legal representation to all eligible beneficiaries in Massachusetts in eviction cases is approximately \$26.29 million, as summarized in Table 2.¹⁸ Estimating this total annual cost is a necessary first step to quantify the per-dollar net savings to the Commonwealth and requires five inputs: (1) the number of families and individuals who face an eviction in a year; (2) the percent of families and individuals who qualify for legal assistance; (3) the percentage of eviction cases that default; (4) the average cost of representing each eviction case; and (5) the overhead and operational costs associated with ensuring that all eligible defendants are paired with qualified representation. This section describes how each of these inputs was estimated.

Table 2
Estimated Costs to the Commonwealth of Providing Civil Legal Aid

Total number of eviction cases	[1]	39,594
Percentage of eviction cases that qualify for full legal representation	[2]	75%
Percentage of eviction cases that default	[3]	24%
Eligible eviction cases	$[4]=[1]*[2]*(1-[3])$	22,454
Average legal cost for each eviction case	[5]	\$1,151
Annual legal cost	$[6]=[5]*[4]$	\$25,848,624
Annual implementation cost	[7]	\$445,658
Annual cost to represent eligible eviction cases	$[7]+[6]$	\$26,294,283

i. Total number of eviction cases

In fiscal year 2019 (“FY2019”), there was a total of 39,594 summary process cases.¹⁹ The number of eviction filings in Massachusetts over the past 12 years has been relatively stable, ranging from 37,051 to 41,812.²⁰ At this time, we have no reason to believe that the number of formal eviction filings will significantly change in the near future. As a result, we assume that there will be the same number of summary process cases in FY2020 as there were in FY2019.

ii. Percentage of eviction cases that qualify for full legal representation

We understand that the proposed legislation will provide full legal representation for defendants if their income is below 200% of the federal poverty guidelines. According to the Massachusetts Legal Assistance Corporation (MLAC), approximately 75% of defendants in eviction cases have incomes below 125% of the

¹⁸ This does not include an estimate for full legal representation for indigent owner-occupants of two-family properties who are at 200% of poverty level or below and who are seeking possession, which legislation in Massachusetts proposes.

¹⁹ Commonwealth of Massachusetts, “Massachusetts Trial Courts – Summary of Case Filings by Type: FY2015 to FY2019.”

²⁰ Commonwealth of Massachusetts, “Massachusetts Trial Courts – Summary of Case Filings by Type: FY2015 to FY2019”; Commonwealth of Massachusetts, “Massachusetts Trial Courts – Summary of Case Filings by Type: FY2005 to FY2014.”

federal poverty guidelines, are 60 years or older, or are Medicare recipients.²¹ While it is highly likely that a higher proportion of defendants would have income levels below 200% of the federal poverty guideline, we were unable to identify any corresponding estimates. As such, we conservatively assume that 75% of eviction cases involve defendants with an income below 200% of the federal poverty guideline (i.e., \$52,400 per year for a family of four),²² and estimate that 29,696 eviction cases would qualify for legal assistance in 2020.²³

iii. Percentage of eviction cases that default

If the defendant in an eviction case does not come to court on the trial date or does not answer the court when the case is called, the court can enter a default judgment and rule to evict the tenant without a hearing or trial.²⁴ A study conducted by Stout Risius Ross for the Philadelphia Bar Association found that Philadelphia’s tenants with legal representation were 90% less likely to receive default judgments.²⁵ Similarly, analyses of data at zip code level from New York City on legal representation in eviction cases have found that areas in which full legal representation in eviction cases was introduced experienced an 11% decline in the number of eviction cases filed, compared to a 2% decline in those where full legal representation was not introduced.²⁶ Thus, there is reason to believe that legal representation for eligible cases would result in both lower default rates and fewer eviction filings. To our knowledge, there has not been a similar study conducted to examine the impact on default rates specific to the Commonwealth, but we would expect that legal representation for eligible eviction cases would similarly result in a lower default rate in Massachusetts.

According to the Massachusetts Law Reform Institute (“MLRI”), the average number of eviction cases that defaulted between 2015 and 2017 is 24.39%.²⁷ We apply this default rate to the number of eligible evictions and estimate that, under the proposed

²¹ Samuelson, Martha, et al., and Boston Bar Association, “Economic Impact of Legal Aid in Eviction and Foreclosure Cases,” in “Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts,” October 2014, p. 74.

²² The 2020 federal poverty guidelines effective as of January 15, 2020, state that the poverty line for a family of four is \$26,200. Therefore, 125% of the poverty line for a family of four is \$32,750 ($\$26,200 * 1.25$) and 200% of the poverty line for a family of four is \$52,400 ($\$26,200 * 2$). See “HHS Poverty Guidelines,” United States Department of Health and Human Resources, Office of the Assistant Secretary for Planning and Evaluation, January 17, 2020, available at <https://aspe.hhs.gov/poverty-guidelines>.

²³ Calculated as $39,594 * 75\%$.

²⁴ In 2019, a statewide survey was conducted to better understand the reasons why tenants in Massachusetts receive default judgments. The survey reviewed eviction cases in March 2019 in all of the Housing Court’s six divisions and identified 570 cases in which a tenant received a default judgment. AmeriCorps Legal Advocates and other volunteers knocked on all 570 doors of these tenants and spoke with over 140 tenants/respondents. The survey results revealed that the four most prevalent reasons why tenants did not appear in court and received default judgments were: 1) tenants did not receive a court summons or complaint; 2) tenants had paid what they owed and believed they did not need to appear in court; 3) tenants were affirmatively told that they did not need to attend court; and 4) tenants had medical or disability-related reasons, in some cases emergencies. See “The Default Project: Tenant Defaults in Housing Court Eviction Cases: Preliminary Findings and Policy Recommendations,” prepared at the request of the Massachusetts Access to Justice Commission Housing Committee by Massachusetts Law Reform Institute, Justice Center of Southeast Massachusetts, and AmeriCorps Legal Advocates of Massachusetts (forthcoming spring 2020).

²⁵ Stout Risius Ross, “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants,” November 13, 2018, p.7 (“Our analysis found that tenants who are represented are 90% less likely to lose by default than tenants without representation”).

²⁶ Mironova, Oksana, “NYC Right to Counsel: First year results and potential for expansion,” Community Service Society of New York, March 25, 2019, available at <https://www.cssny.org/news/entry/nyc-right-to-counsel>.

²⁷ Massachusetts court data from 2015 to 2017 provided to MLRI from the Massachusetts Trial Court Department. From 2015 to 2017, 20,539 cases defaulted out of a total of 84,221 cases disposed.

legislation, the Commonwealth would fund legal representation in 22,454 eviction cases.²⁸

iv. *Average legal cost of each eviction case*

The average cost to provide full legal representation in each eviction case depends on the actual hourly costs of Massachusetts legal aid lawyers, including associated overhead and administrative costs incurred by the legal aid organizations, and the average number of hours spent per case. A survey was conducted among Massachusetts legal aid organizations that represent defendants in eviction cases. The survey was sent to the six organizations representing the legal services regions in the state via email on October 24, 2019. Complete survey responses were received from four organizations. The other two organizations provided information on hourly rates, but indicated that they did not keep track of all the information needed to respond fully to the survey, such as the total number of hours spent on eviction cases. One of these two organizations had hourly costs comparable to the four organizations that fully completed the survey. The other organization had higher actual hourly costs than the other organizations that responded. The survey questions are shown below in Table 3.²⁹

Table 3
Survey Questions

-
- 1) What is the name of your legal services organization?
 - 2) How many eviction cases did your organization take in FY 2018 that required full legal representation?
 - 3) In 2018, how many total billable hours were spent on an average eviction case that required full legal representation? This number should represent the total number of attorney hours across junior, mid-level and senior housing attorneys per average case.
 - 4) What is the estimated number of hours spent by junior housing attorneys?
 - 5) What is the estimated number of hours spent by mid-level housing attorneys?
 - 6) What is the estimated number of hours spent by senior housing attorneys?
 - 7) What is the average hourly rate for a junior housing attorney (in \$ per hour)?
 - 8) What is the average hourly rate for a mid-level housing attorney (in \$ per hour)?
 - 9) What is the average hourly rate for a senior housing attorney (in \$ per hour)?
 - 10) Are there additional costs to your organization that are not factored into the hourly rates from the previous section?
 - 11) If yes to question 10, please list these costs and provide an estimate in dollars of the cost per eviction case that requires full legal representation of these additional expenses.
 - 12) Do you have any additional comments about the cost of full legal representation for eviction cases that should be considered?
-

The weighted average legal cost for representing an eviction case, as reported by the surveyed organizations, is \$1,151.³⁰ This cost includes additional administrative costs to the organizations. There was little variation in the estimated cost per case across the organizations that responded to the survey, indicating that the cost estimates provided in survey responses are reliable.

²⁸ Calculated as 29,696 * (1 - 24.39%). We note that by assuming that the default rate in Massachusetts remains unchanged, we may underestimate the total cost to the Commonwealth of providing legal representation, but would also underestimate the total amount of cost savings to the Commonwealth. As a result, this approach underestimates the *net* cost of providing legal representation in eligible eviction cases.

²⁹ The level of seniority of an attorney is defined as: junior for zero to three years of experience practicing law; mid-level for four to 10 years practicing law; and senior for 11 or more years practicing law.

³⁰ This calculation is based on estimated legal costs from FY2018. We assume the legal costs of providing full legal representation will stay constant in 2020. Weighting was done based on the number of eviction cases each organization handled in the year.

v. *Annual implementation cost for providing full legal representation in eviction cases*

Based upon the proposed legislation, we assume that an independent department within an existing agency in the Commonwealth would be formed to implement a program to provide full legal representation in evictions. We assume that this department will have four employees – two senior-level directors, one mid-level analyst, and one administrative assistant – in order to prepare a plan, develop standards and criteria for designated agencies to provide representation, implement a coordinated right-to-counsel program statewide, and collect eviction data to study and evaluate the impact of the program.

To estimate the costs associated with administering and implementing the program, 2019 data on the compensation of similarly positioned employees of the Commonwealth were collected from public sources. As shown in Table 4 below, the estimated total salary and benefit costs for these Commonwealth employees range from \$70,935 to \$126,478.³¹ Overhead costs are assumed to be equal to 10% of the total personnel costs of the department (\$40,514), which is consistent with guidance provided by the Commonwealth for budgeting purposes. As such, the total estimated operating and overhead cost associated with administering and implementing the program is \$445,658.³²

Table 4
Implementation Costs

Position	Salary	Benefits	Total Costs
Senior-level director	\$ 97,291	\$ 29,187	\$ 126,478
Senior-level director	\$ 97,291	\$ 29,187	\$ 126,478
Mid-level analyst	\$ 62,502	\$ 18,751	\$ 81,253
Administrative assistant	\$ 54,565	\$ 16,370	\$ 70,935
Overhead costs			\$ 40,514
Total	\$ 311,649	\$ 93,495	\$ 445,658

b. Assessing the incremental benefit of full legal representation on success rates

Based on a randomized test and control study conducted in Quincy, Massachusetts, it was estimated that an *additional* 28% of tenants retain possession of housing when they receive full legal representation in eviction cases.³³ Given that the unrepresented tenants (control group) in this study received *limited* legal assistance, and a majority of tenants in Massachusetts eviction cases do not receive *any* legal assistance, this 28% likely

³¹ We used 2019 data on the compensation of similarly positioned employees to estimate the salaries of state employees. We assume that benefits are 30% of an employee’s salary. See “Statewide Payroll,” Commonwealth of Massachusetts, available at <http://cthrupayroll.mass.gov>.

³² Calculated as 10% of the total personnel costs of the department (\$405,144 * 10%). See “Administrative Bulletin: Fringe Benefits, Payroll Taxes and Indirect Costs (A&F 5),” Commonwealth of Massachusetts: Executive Office for Administration and Finance, May 1, 2008, available at <https://www.mass.gov/administrative-bulletin/fringe-benefits-payroll-taxes-and-indirect-costs-af-5#indirect-costs> (“For departments without a federally approved rate, the indirect cost rate will be equal to ten percent (10%) of the department’s personnel costs, including both regular employees and contract employees”).

³³ Greiner, et al. (2013), p. 927. Note that for the subset of individuals who prevail, we assume that the individual will retain housing following an eviction proceeding for at least the remainder of the fiscal year.

underestimates the impact of full legal representation;³⁴ thus, the incremental impact of full legal representation on the outcome of eviction cases will likely be even higher.³⁵ Using this conservative estimate of the impact of representation on the outcome of eviction cases, we estimate that an *additional* 6,287 cases would preserve their housing if provided with full legal representation. Assuming that 77% of these cases are families and 23% are individuals,³⁶ and there is an average of three people per family,³⁷ we estimate that at least 15,969 people would remain in their homes per year due to full legal representation.³⁸ In other words, without representation, 15,969 people would lose possession of their homes; with representation, those people would preserve their housing.³⁹

c. Assessing the incremental benefit of full legal representation on homelessness

A proportion of evicted people will experience homelessness and enter emergency shelter. By providing full legal representation in eviction cases, as discussed above, the number of people who are evicted and subsequently experience homelessness has been demonstrated to decrease.⁴⁰ This reflects potential economic savings to the Commonwealth.

As a next step in our calculation, we estimate the number of people who are likely to avoid homelessness when provided with full legal representation.⁴¹ To calculate the cost savings to the Commonwealth, we first derive an estimate of the number of families and individuals

³⁴ The Massachusetts Trial Court reported in FY19 that 91.3% of tenants in summary process cases did not have legal representation. See “Percent of Self-Represented Litigants in Summary Process Cases Disposed in FY 2019 by Division,” Housing Court Department, available at <https://www.mass.gov/doc/2019-housing-court-self-represented-represented-litigants-by-court-location/download>.

³⁵ For instance, many of the study participants in the control group “received limited legal assistance in the form of how-to clinics run by a Greater Boston Legal Services (GBLS) staff attorney.” See Greiner, et al. (2013), p. 908. Therefore, the overall impact of full legal representation is likely higher than the 28% estimated in the study.

³⁶ “The Importance of Representation in Eviction Cases and Homelessness Prevention: A Report on the BBA Civil Right to Counsel Housing Pilots,” Boston Bar Association Task Force on the Civil Right to Counsel, March 2012 (“BBA Eviction Report (2012)”), p. 47.

³⁷ National studies estimate that the average size of a family experiencing homelessness is three persons (one woman and two children). “Homelessness in America: Focus on Families with Children,” United States Interagency Council on Homelessness, September 2018, p. 1 (184,661 individuals / 58,000 households = 3.14). Data from the Massachusetts Department of Housing and Community Development (“DHCD”) from 2018 shows that there were 3,171 families in shelter with seven or fewer members, and these families comprised 10,221 individual family members. We estimate that the family size of a family experiencing homelessness in shelter is three (10,221 / 3,171 = 3.22).

³⁸ With full legal representation, an additional 4,841 families per year would remain in their homes (6,287 cases * 77% of cases are families = 4,841).

With full legal representation, an additional 14,523 individual family members per year would remain in their homes (4,841 families would remain in their homes due to full legal representation * three people per family = 14,523).

With full legal representation, an additional 1,446 individuals per year would remain in their homes (6,287 cases * 23% of cases are individuals = 1,446).

Thus, an additional 15,969 people per year would remain in their homes due to full legal representation (14,523 individual family members + 1,446 individuals = 15,969).

³⁹ Calculated as 22,454 * 28% = 6,287. See Table 5.

⁴⁰ New York City, which began phasing in full legal representation for tenants at 200% of the federal poverty guideline, found that 84% of tenants with full legal representation remain in their homes. “Universal Access to Legal Services: A Report on Year One of Implementation in New York City,” New York City Human Resources Administration, Fall 2018, available at <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf>.

⁴¹ We base our cost savings estimates to the Commonwealth on the number of people who are likely to avoid homelessness under a system with full legal representation, rather than the existing number of people who are in shelters due to evictions or threatened evictions. We do this for two reasons. First, the costs of legal assistance are based on the number of cases eligible for full legal representation who are below 200% of federal poverty guidelines and did not default. Thus, to estimate the net cost savings to the Commonwealth, we derive cost savings from the same number of cases from which we derive the costs. Second, this report attempts to estimate the future savings to the Commonwealth. Using the number of cases in which tenants would remain in their homes due to full legal representation is a more appropriate measure of future savings than using the existing shelter population.

who *would have* entered the emergency shelter system if they had been evicted. As not all individuals experiencing homelessness seek or are eligible for emergency shelter, it is likely that the true number of individuals who experience homelessness as a result of an eviction is even higher, making our savings estimates conservative.⁴²

As shown in Table 5, we estimate that 77% of eviction cases involve families.⁴³ According to the Massachusetts Department of Housing and Community Development (DHCD), 14.3% of families entering the shelter system in FY2019 indicated that an eviction or threatened eviction was the *proximate* cause of their homelessness.⁴⁴ Therefore, we assume conservatively that 14.3% of evicted families are likely to enter the shelter system.⁴⁵ We estimate that the remaining 23% of eviction cases involve individuals, and we assume that 20% of evicted individuals enter the shelter system.⁴⁶ As a result, we estimate that 692 families⁴⁷ and 289 individuals⁴⁸ would be kept out of the shelter system if provided with full legal representation in eviction cases.

⁴² Many families and individuals will not enter or be eligible for emergency shelter. These families and individuals can end up unsheltered, or living in irregular housing situations such as couch-surfing or doubled-up, or conditions not meant for habitation.

⁴³ BBA Eviction Report (2012), p. 47. We assume that each eviction case involving families only involves one family.

⁴⁴ Massachusetts' DHCD publishes quarterly reports on the Emergency Assistance, HomeBASE, and Residential Assistance for Families in Transition ("RAFT") Programs. See "Emergency Assistance, HomeBASE and RAFT Programs: FY2019, Fourth Quarterly Report," Commonwealth of Massachusetts: Department of Housing and Community Development, August 9, 2019 ("Q4 2019 DHCD Emergency Assistance Report"). See also, "The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A," Stout Risius Ross, March 16, 2016, p. 17. The report cited a study conducted in 2007 in New York City that reported, "23% of families entering shelter listed eviction as the direct cause of their shelter entry. However, when surveyed specifically about evictions, 38% of families responded that they had experienced a formal eviction and an additional 9% of families reported an informal eviction within the last five years." See also Collinson and Reed (2018), p. 3. This study found that in New York City, evictions caused a 14% increase in the probability of applying to homeless shelters. The study compared households that were evicted to a control group of households that were not evicted but did receive an eviction filing in court.

We further note that tenants experiencing domestic violence also face eviction because of such violence. See Ross, Kristen M., "Eviction, Discrimination, and Domestic Violence: Unfair Housing Practices against Domestic Violence Survivors," *Hastings Women's Law Journal*, Vol. 18, No. 2, 2007. Although there are no statewide data currently available in Massachusetts showing the extent to which families facing domestic violence also face eviction, in FY19, 16% of families entering the emergency shelter system stated that the proximate cause of their homelessness was domestic violence. See "DHCD EA Monthly Report, Statewide Summary," June 2019, available at <https://www.mass.gov/doc/ea-monthly-report-june-2019/download>.

In addition, elders living alone or on fixed incomes are increasingly threatened with housing instability and homelessness. A recent report projects that the elder population experiencing homelessness in Boston will nearly triple between 2011 and 2030. The increases in homelessness among the elderly in Boston will also lead to a projected doubling in shelter and health care costs from \$33.2 million in 2011 to \$67.4 million in 2030 (this estimate excludes associated increases in Medicare costs). See Culhane, Dennis, et al., "The Emerging Crisis of Aged Homelessness: Could Housing Solutions Be Funded by Avoidance of Excess Shelter, Hospital, and Nursing Home Costs?" January 2019, available at <https://www.aisp.upenn.edu/wp-content/uploads/2019/01/Emerging-Crisis-of-Aged-Homelessness-1.pdf>.

⁴⁵ The percentage used in our calculation may underestimate the percentage of evicted families who enter the emergency shelter system because an eviction may not have been the *proximate* cause of their homelessness (for example, families may have found temporary alternative housing, such as couch-surfing, for a period of time prior to entering the shelter). Thus, 14.3% is a conservative estimate of evicted families who ultimately enter the shelter system due to an eviction.

⁴⁶ BBA Eviction Report (2012), p. 47. "Civil Legal Aid Yields Economic Benefits to Clients and to the Commonwealth," *Massachusetts Legal Assistance Corporation*, FY2012, p. 11. We assume that each eviction case involving individuals only involves one individual. We are not aware of any recent data estimating the share of individuals entering the shelter system; thus, consistent with our 2014 study, we assume that 20% of individuals enter the shelter system based on a 2012 MLAC estimate.

⁴⁷ Calculated as $6,287 * 77% * 14.3%$ (628). See Table 5.

⁴⁸ Calculated as $6,287 * 23% * 20%$ (289). See Table 5.

Table 5
Families and Individuals Prevented from Entering the Shelter System Due to Civil Legal Aid

Eligible eviction cases	[1]	22,454
Additional percentage of cases that prevail with full representation	[2]	28%
Additional number of cases that prevail due to full legal representation	[1]*[2]	6,287
Percentage of eviction cases involving families	[2a]	77%
Percentage of evicted families that end up in the shelter system	[3a]	14%
Number of families kept out of the shelter system due to full legal representation	[1]*[2a]*[3a]	692
Percentage of eviction cases involving individuals	[2b]	23%
Percentage of evicted individuals that end up in the shelter system	[3b]	20%
Number of individuals kept out of the shelter system due to full legal representation	[1]*[2b]*[3b]	289

d. Assessing the measurable savings derived from preventing homelessness Having derived estimates for the number of families and individuals who are saved from homelessness due to receiving full representation in eviction cases, it is necessary to determine the costs associated with sheltered homelessness that are ultimately saved through this intervention.

We have analyzed three categories of quantifiable costs to the Commonwealth related to homelessness for which the body of existing literature provides sufficient information for our calculation of potential savings. We estimate that the minimum quantified cost savings to the Commonwealth are \$63.02 million. As discussed elsewhere in this report, there are many other societal costs associated with homelessness that are not included in our calculation. Therefore, the potential savings to the Commonwealth associated with providing legal assistance are likely to be substantially greater than the estimates provided below.

i. Reduction in emergency housing and shelter costs

Based on the Massachusetts DHCD, the costs to the Commonwealth of providing emergency shelter are, on average, \$54,450 per family per shelter stay⁴⁹ and \$11,552 per individual per shelter stay.⁵⁰

Using the estimates of families and individuals that would be kept out of the shelter system if they had access to full legal representation in eviction cases, we estimate that the Commonwealth would save approximately \$41.0 million on emergency housing and shelter costs annually by providing full legal representation in these cases (see Table 6).

⁴⁹ From Q1 to Q4 2019, the average length of stay for a family in a shelter was 363 days. The average daily rate for a shelter or motel stay in 2019 was \$150. The average annual cost for a family shelter stay is calculated as 363 * \$150 = \$54,450. See Q1 2019 DHCD Emergency Assistance Report; Q2 2019 DHCD Emergency Assistance Report; Q3 2019 DHCD Emergency Assistance Report; Q4 2019 DHCD Emergency Assistance Report.

⁵⁰ Based on FY2015 data provided by the DHCD to the Massachusetts Housing and Shelter Alliance (“MHSA”), the average daily cost per bed in a shelter was \$31.65. It is assumed that all shelters run at full capacity each night and that the average shelter stay for an individual is 365 days. The average cost per individual is calculated as \$31.65 * 365 = \$11,553.

Table 6
Shelter Cost Savings

Number of families kept out of the shelter system due to full legal representation	[1a]	692
Average annual cost per family in the shelter system	[2a]	\$ 54,450
Annual shelter cost savings due to full legal representation (families)	[3a]=[1a]*[2a]	\$37,701,859
Number of individuals kept out of the shelter system due to full legal representation	[1b]	289
Average annual cost per individual in the shelter system	[2b]	\$ 11,552
Annual shelter cost savings due to full legal representation (individuals)	[3b]=[1b]*[2b]	\$3,340,945
Annual total shelter cost savings to the Commonwealth due to full legal representation	[3a]+[3b]	\$ 41,042,804

ii. *Reduction in health care costs*

Studies have found significant negative health outcomes for individuals and families experiencing homelessness, which we quantify below.⁵¹ Home and Healthy for Good (“HHG”) is an initiative under the Massachusetts Housing and Shelter Alliance (“MHSA”) in which individuals who previously experienced chronic homelessness are offered a permanent place to live.⁵² According to a June 2019 report by MHSA, the medical costs incurred on behalf of 713 participants in the HHG program decreased by a total of \$7.6 million during the six months after being housed, compared to the medical costs incurred while experiencing homelessness during the six months prior to joining the program.⁵³

From the annualized costs reported by MHSA, we estimate the average annual health care cost for individuals experiencing homelessness was \$39,928, whereas the average annual health care cost for individuals who obtained housing was \$18,613.⁵⁴ As such, this study suggests that there is a health care savings of \$21,314 per adult individual kept from homelessness.^{55, 56} Because the data are limited on the full cost of health care for children experiencing homelessness, we assume conservatively that the health care savings of a child are half of the health care costs of an adult (\$10,658).⁵⁷

⁵¹ “Homeless populations, including children, have been shown to experience poorer physical and mental health, compared with those with stable housing, while also having increased health care spending. They have higher rates of hospitalization for asthma, are more likely to contract common infections, such as otitis media and gastroenteritis, and have a higher prevalence of behavioral and mental health problems, including attention-deficit/hyperactivity disorder and suicide ideation.” See Stewart, Amanda M., et al., “Pediatric Emergency Department Visits for Homelessness After Shelter Eligibility Policy Change,” *Pediatrics*, Vol. 142, No. 5. November 2018, p. 2.

⁵² “Permanent Supportive Housing: A Solution-Driven Model, June 2019 Home & Healthy for Good Progress Report,” *Massachusetts Housing and Shelter Alliance*, June 2019 (“June 2019 MHSA Report”), available at <https://www.mhsa.net/sites/default/files/June%202019%20HHG%20Report.pdf>.

⁵³ Figures taken from this report are annualized. See June 2019 MHSA Report, p. 7.

⁵⁴ Over 77% of all Home and Healthy for Good participants are male. See June 2019 MHSA Report.

⁵⁵ Calculated as \$39,928 - \$18,613. See Table 7.

⁵⁶ Note that this study was based on costs incurred by a cohort of individuals experiencing chronic homelessness, who are the highest-end utilizers of the state’s health care systems. These individuals have repeated or extended stays of a year or more on the streets and in shelters (and thus may incur more costs in a year than the average individual experiencing homelessness). Therefore, it is possible that this \$21,314 estimate overstates the average health care costs associated with homelessness from eviction.

⁵⁷ Single individuals experiencing homelessness tend to be adult males, while families experiencing homelessness tend to be headed by women and include one or more young children. Because our estimated health care costs are based primarily on male individuals

We estimate that the average family size is three persons, and that the makeup of the average family is one adult individual and two children, assuming the health care cost is on average 50% of that of an adult.⁵⁸ Using the estimates of families and individuals kept out of the shelter system due to full legal representation in eviction cases, we estimate savings of approximately \$35.7 million on health care costs annually by providing full legal representation in eviction cases. It is our understanding that the federal government reimburses the Commonwealth for 50% of the cost of state-provided health care.⁵⁹ As such, we estimate that the Commonwealth would save approximately \$17.8 million on health care costs annually by providing full legal representation in eviction cases (see Table 7).⁶⁰

Table 7
Health Care Cost Savings

Average annual health care costs for an individual experiencing chronic homelessness	[1]	\$ 39,928
Average annual health care costs for a currently housed (previously homeless) individual	[2]	\$ 18,613
Incremental annual health care savings of keeping an individual housed	[3]=[1]-[2]	\$ 21,314
Number of families kept out of the shelter system due to full legal representation	[4a]	692
Number of adults per family (assumption)	[5a]	1
Number of children per family (assumption)	[5b]	2
Annual health care cost savings due to full legal representation (families)	[6a]=[3]*[4a]*([5a]+50%*[5b])	\$ 29,516,353
Number of individuals kept out of the shelter system due to full legal representation	[4b]	289
Annual health care cost savings due to full legal representation (individuals)	[6b]=[3]*[4b]	\$ 6,164,113
Annual total health care cost savings due to full legal representation	[7]=[6a]+[6b]	\$ 35,680,466
Annual total health care cost savings to the Commonwealth due to full legal representation	[7]*50%	\$17,840,233

experiencing homelessness, and we have not found comparable estimated health care costs for women and children, we assume that the health care costs for an average adult woman experiencing homelessness are the same as an adult male experiencing homelessness, and that the health care costs for an average child is equivalent to half that of an average adult individual. Medical studies indicate, however, that infants and younger children experiencing homelessness were more likely than were older children to have an emergency department (“ED”) visit or hospitalization “because of parents relying on EDs for routine care or their heightened concern for a young child’s well-being.” In addition, “[p]regnancy and childbirth were leading conditions associated with adults’ ED visits and had the strongest association with hospital admissions. Increasing stress and disrupted access to usual care sources in the periods **before** and during homelessness may lead to more pregnancy and childbirth complications and greater reliance on emergent treatment settings for prenatal and postpartum care.” See Clark, Robin E, et al., “Health Care Utilization and Expenditures of Homeless Family Members Before and After Emergency Housing,” *American Journal of Public Health*, Vol. 108, No. 6, 2018, pp. 808–814 (“Clark, et al. (2018)”). See also “Homelessness in America: Focus on Families with Children,” p. 1.

⁵⁸ National studies estimate that the average size of a family experiencing homelessness is three persons (one woman and two children). “Homelessness in America: Focus on Families with Children,” p. 1 (184,661 individuals / 58,000 households = 3.14). Data from the Massachusetts DHCD from 2018 show that there were 3,171 families in shelter with seven or fewer members, and these families comprised 10,221 individual family members. These data are consistent with the national studies, and show that the average size of a family experiencing homelessness in shelter consists of three people (10,221 / 3,171 = 3.22).

⁵⁹ Mitchell, Alison, “Medicaid’s Federal Medical Assistance Percentage (FMAP),” Congressional Research Service, April 25, 2018, available at <https://fas.org/sgp/crs/misc/R43847.pdf>, p. 12.

⁶⁰ Note that health care cost savings to the federal government are not included in our estimates and may indirectly benefit taxpayers in the Commonwealth.

iii. *Reduction in foster care costs*

According to a report published by the Boston Foundation, children in about 20% of families experiencing homelessness are placed in the foster care system.^{61,62} This represents a significant cost to the Commonwealth. To estimate the potential savings to the Commonwealth associated with preventing homelessness and the resulting additional costs to the foster care system, we conservatively assume that families are able to immediately regain custody of their children once they are no longer experiencing homelessness. We also assume that there are two children per family experiencing homelessness.⁶³ We multiply the average length of family shelter stay (11.93 months)⁶⁴ by the average monthly foster care cost in Massachusetts for two children (\$2,501)⁶⁵ to obtain the average per-family cost of keeping children from evicted families experiencing homelessness in the foster care system (\$29,847).⁶⁶

Table 8
Foster Care Cost Per Child

Massachusetts annual spending on family foster care	[1]	\$ 129,302,014
Percent of foster care financed by federal government	[2]	29%
Total cost of family foster care to the Commonwealth	[3]=[1]*(1-[2])	\$ 91,804,430
Children in Massachusetts family foster care system	[4]	6,118
Estimated cost per child per month	[5]=[3]/[4]/12	\$ 1,250
Estimated cost per month of two children	[6]=[5]*2	\$ 2,501

We conservatively estimate that the Commonwealth would save approximately \$4.13 million on foster care costs annually by providing full legal representation in eviction cases (see Table 9).

⁶¹ Friedman, Donna H. et al., “Preventing Homelessness and Promoting Housing Stability: A Comparative Analysis,” The Boston Foundation, 2007, available at http://scholarworks.umb.edu/csp_pubs/3, p.40

⁶² We have not identified any studies that compare the costs or likelihood associated with the provision of foster care for families experiencing homelessness to disadvantaged families that are not experiencing homelessness. For purposes of this analysis, we assume that beneficiaries of full legal representation who would not end up in emergency shelter would not require the foster care system. To the extent the Commonwealth incurs these costs for beneficiaries who would not become homeless, this assumption may overstate the potential savings to the Commonwealth associated with this cost category.

⁶³ Our assumption of two children per family experiencing homelessness is consistent with recent national studies on homelessness, which estimate an average size of a family experiencing homelessness of three. See “Homelessness in America: Focus on Families with Children,” p.1 (184,661 individuals / 58,000 households = 3.14). See also Clark, et al. (2018). Single individuals experiencing homelessness tend to be adult males, while families experiencing homelessness tend to be headed by women and include one or more young children (most national studies estimate a typical family size of one woman and two children).

⁶⁴ From Q1 to Q4 2019, the average length of stay for a family in a shelter was 363 days, or 11.93 months. The average annual cost for a family shelter stay calculated 363 * \$150 = \$54,450. See Q1 2019 DHCD Emergency Assistance Report; Q2 2019 DHCD Emergency Assistance Report; Q3 2019 DHCD Emergency Assistance Report; Q4 2019 DHCD Emergency Assistance Report.

⁶⁵ Massachusetts spends \$129,302,014 on family foster care annually; there are 6,118 children in the foster care system; and 29% of foster care spending by the Commonwealth is reimbursed by the federal government. Note that there are three types of foster care funded by the Commonwealth, of which family foster care is only one. The others are “comprehensive foster care” and “congregate foster care.” Family foster care is the least costly of these types of foster care, meaning that these estimates of foster care cost savings due to legal assistance are conservative. See “Child Welfare Agency Spending in Massachusetts,” *Child Trends*, December 2018, pp. 5–6; “8 Graphics That Show the Shape of the Foster Care System,” *Boston Globe*, October 18, 2016, available at <https://www.bostonglobe.com/metro/2016/10/18/graphics-that-show-shape-foster-care-system-mass/klsHY2a9J2WwAHhmPh5Z4L/story.html>; “Massachusetts Department of Children & Families Quarterly Profile -- FY’2020,” Massachusetts Department of Children and Families, July–September 2019, available at <https://www.mass.gov/doc/area-profile-fy2020-q1-0/download>, at line item 21.

⁶⁶ Calculated as 11.93 * \$2,501 = \$29,847.

**Table 9
Total Foster Care Costs**

Number of families kept out of the shelter system due to full legal representation	[1]	692
Percentage of homeless families whose children are placed in the foster care system	[2]	20%
Number of families kept out of the foster care system due to full legal representation	[3]=[1]*[2]	138
Average monthly foster care cost in Massachusetts for two children	[4]	\$ 2,501
Average monthly length of family shelter stay in a year	[5]	11.93
Annual per-family cost to keep children of homeless families in the foster care system	[6]=[4]*[5]	\$ 29,847
Annual total foster care cost savings to the Commonwealth due to full legal representation	[3]*[6]	\$ 4,133,261

e. Summary of costs and net cost savings

In summary, we estimate that the cost of providing full legal representation for eligible eviction cases is \$26.29 million, while the minimum cost savings are \$63.02 million. Specifically, we quantify three cost savings categories, including shelter cost, health care cost, and foster care cost. The majority (64%) of cost savings come from shelter cost. In other words, every dollar invested in the program can potentially save at least \$2.40 in costs that the Commonwealth will not have to incur on an annual basis.

**Table 10
Summary of Total Net Cost Savings**

Estimated Total Cost Savings to the Commonwealth		
Annual shelter cost savings due to full legal representation	[1]	\$41,042,804
Annual health care cost savings due to full legal representation	[2]	\$17,840,233
Annual foster care cost savings due to full legal representation	[3]	\$4,133,261
Estimated Total Annual Cost Savings Due to Full Legal Representation	[4] = [1]+[2]+[3]	\$63,016,298
Estimated of Cost to the Commonwealth	[5]	\$26,294,283
Net Cost Savings (conservative estimate)	[6]=[4]-[5]	\$36,722,015
Cost Savings per Dollar Spent (conservative estimate)	[7]=[4]/[5]	\$2.40

IV. Cost Savings Not Quantified Given Available Data and Additional Parties that Would Benefit from Cost Savings Due to Full Legal Representation in Eviction Cases

In addition to the cost savings discussed in Section II.d, there are benefits to the Commonwealth from providing full legal representation in eviction cases that are difficult to quantify within a given fiscal year due to lack of available data, and because many of these benefits would be realized beyond the fiscal year. Here, we discuss additional cost savings and benefits to the Commonwealth that cannot be included in the framework outlined above. We also highlight additional parties that could benefit from cost savings due to full legal representation in summary process cases, such as the federal government, municipalities,

school districts, sheriffs' departments, constables' offices, and property owners.⁶⁷ For this reason, the cost savings outlined above underestimate the true benefit of providing legal assistance in eviction cases.

a. Reduction in schools' educational and behavioral support costs for children experiencing homelessness

Evictions are more prevalent among households with children. A study by Matthew Desmond, Professor of Sociology at Princeton University, found that when controlling for race and rental arrears, the probability of households with children receiving an eviction judgment is 16–17% higher than those without children.⁶⁸ It has been demonstrated that evictions have an adverse impact on parenting stress and child health.⁶⁹

Data on the number of children experiencing homelessness specifically due to an eviction, and the associated costs, are limited. Nonetheless, since evictions are associated with increased instances of homelessness, it can be reasonably assumed that some percentage of children experiencing homelessness in Massachusetts are homeless due to a recent eviction. Homelessness in schools is associated with both academic and behavioral issues. In 2018, the Massachusetts Department of Elementary and Secondary Education found that 24,777 public school students experienced homelessness.⁷⁰ Data from Boston Public Schools demonstrate a significant difference in test scores between students experiencing homelessness and housed students. On the state's standardized Massachusetts Comprehensive Assessment System (MCAS) exams, 32.9% fewer students experiencing homelessness perform in the proficient or advanced range in the math section than their housed peers, and 24.2% fewer perform in the proficient or advanced range in the science portion of the test than their housed peers.⁷¹ Homelessness among children is also associated with behavioral issues in school. One study of children in Worcester, Massachusetts, found that, even compared to housed children from low-income, single-parent, and female-headed families, children in similar situations that experience homelessness have more internalizing problem behaviors, such as social withdrawal and loneliness.⁷²

Children facing academic and behavioral challenges in schools require greater support and assistance, which are in turn funded by both the Commonwealth and individual school districts. Therefore, it is likely that a reduction in evictions would create cost savings to both school districts and the Commonwealth associated with both academic and behavioral support services in schools.

⁶⁷ The federal government is likely to benefit from cost savings due to full legal representation in summary process cases due to the reduced cost of social programs that are funded (at least in part) by the federal government. For example, as discussed in Section III.d.ii, we estimate the federal government will save approximately \$17.4 million in health care costs.

⁶⁸ Desmond, Matthew, et al., "Evicting Children," *Social Forces*, Vol. 92, No. 1, September 2013, pp. 303–327, at p. 317.

⁶⁹ Desmond, Matthew, and Rachel Tolbert Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces*, Vol. 94, No. 1, September 2015, pp. 295–324, at p. 296.

⁷⁰ Massachusetts Department of Elementary and Secondary Education, "Homeless Student Program Data 2018-2019," available at https://mahomeless.org/images/Ed_Stability_Data_Report_2018-19.pdf.

⁷¹ Boston Public Schools Student Information System, 2018.

⁷² Buckner, John C., et al., "Homelessness and Its Relation to the Mental Health and Behavior of Low-Income School-Age Children," *Developmental Psychology*, Vol. 35, No. 1, 1999, pp. 246–257, at pp. 247, 249.

b. Reduction in education delay and drop-out rates for children

As discussed above, approximately 15% of evicted families end up in the shelter system. In addition to an increased likelihood that the children in these families will be placed in the foster care system, it has been observed that children experiencing homelessness have a significantly reduced rate of high school graduation. According to a 2010 fact sheet from the National Center on Family Homelessness, the high school graduation rate for children experiencing homelessness is less than 25%,⁷³ compared to the 74% graduation rate for low-income children in Massachusetts in 2013.⁷⁴

It is well documented that average fiscal contributions of 18–64 year olds with a high school diploma far exceed the fiscal contributions of those that did not graduate from high school. These fiscal contributions include higher federal and state tax payments, lower cash transfers (e.g., unemployment benefits), lower non-cash transfers (e.g., value of food stamps), and lower jail/prison costs.⁷⁵ According to the National Center on Family Homelessness, adults with a high school degree contribute an average of \$127,000 more to society in their lifetime than an adult without a high school degree.⁷⁶ Other sources cite even higher differentials between the societal contributions of a high school graduate versus a dropout. For instance, according to the Northeastern University Center for Labor Market Studies, the lifetime net fiscal contribution to society is approximately \$467,023 higher in Massachusetts for a high school graduate compared to a dropout.⁷⁷

While the graduation rate for children experiencing homelessness specifically due to eviction has not been researched, assuming this rate is comparable to children experiencing homelessness overall, it is likely that significant long-term cost savings to the Commonwealth are realized by preventing homelessness in children through eviction prevention.

c. Reduction in school transportation costs for children experiencing homelessness

In FY2020, the Commonwealth budgeted \$11 million to municipalities to transport children experiencing homelessness to school. The amount budgeted by the state does not represent the full costs of transportation of children experiencing homelessness. The remaining amount is funded directly by municipalities.⁷⁸ Given that legal assistance reduces the number of families experiencing homelessness, the need for transportation of children experiencing homelessness would be reduced, which results in cost savings to cities and towns. It may further result in cost savings to the Commonwealth if, in future years, it is determined that the annual budgeted transportation reimbursement to municipalities can be decreased.

⁷³ The National Center on Family Homelessness, “America’s Youngest Outcasts: State Report Card on Child Homelessness – Massachusetts” (“America’s Youngest Outcasts”), 2010.

⁷⁴ Massachusetts Department of Elementary and Secondary Education, “Cohort 2013 Four-Year Graduation Rates – State Results,” available at <http://www.doe.mass.edu/infoservices/reports/gradrates/>.

⁷⁵ McLaughlin, Joseph, “The Fiscal Returns to Completing High School and Additional Years of Schooling Beyond High School in the U.S. and Massachusetts” (“The Fiscal Returns to Completing High School”), Northeastern University Center for Labor Market Studies, January 2012, pp. 8–11.

⁷⁶ The National Center on Family Homelessness, “America’s Youngest Outcasts.”

⁷⁷ McLaughlin, Joseph, “The Fiscal Returns to Completing High School,” p. 15.

⁷⁸ Commonwealth of Massachusetts, “FY2020 Final Budget,” available at <https://malegislature.gov/Budget/FY2020/FinalBudget>, line item 7035-0008.

d. Reduction in correctional system costs associated with homelessness

In the Commonwealth, there are strong associations between the use of emergency shelter facilities and the use of correctional systems. Analysis of data collected by the Suffolk County Sheriff Department found that a record of either unsheltered or sheltered homelessness in the past month is associated with a two-fold increase in incarceration in the following month. Similarly, one in every 10 people entering the homeless assistance system has been in custody within the past year, and the risk of entering the homeless assistance system is highest immediately following release from a house of corrections.⁷⁹ Much of the cost to both of these systems comes from “frequent users,” individuals who had more than four custody episodes in a house of corrections, and more than four shelter episodes in the study period. These frequent users represent 9.3% of individuals in the data who both used the shelter system and were once in custody at the Suffolk County House of Correction.⁸⁰ While there are no data available that identify the percentage of individuals who are in custody in the correctional systems who have also experienced an eviction, many other studies have found that evictions significantly increase the risk of homelessness. Therefore, it is likely that a reduction in evictions, and an associated reduction in homelessness, would lead to cost savings to the Commonwealth and to municipal sheriffs’ offices.

e. Increased job and family stability

Evictions are associated with greater employment insecurity and job loss. A study by Matthew Desmond and Carl Gershenson on low-income renters in Milwaukee found that a forced move (most commonly due to an eviction) increased the likelihood of being fired by 11%, compared to identical workers without a forced move.⁸¹ As such, we assume that a decrease in evictions resulting from full legal representation may reduce the incidence of unemployment in the Commonwealth. As people who are unemployed will often utilize state unemployment benefits, this reduction in unemployment associated with legal assistance offers potential cost savings to the Commonwealth.

f. Reduction in use of court staff time and resources

In 2013, the Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts distributed a survey to judges in Massachusetts. Of the 80 judges who responded to the survey, 72% said that in the past few years, there had been an increase in the cases in which the defendant/respondent was unrepresented. Furthermore, “housing” was the most frequently cited area where lack of representation causes “problems,” such as increased costs to the court system. Finally, 89% of these judges said that lack of legal representation caused the use of the court’s staff time to increase – the most frequently cited negative impact that lack of representation has on the court.⁸² Thus, introduction of full legal representation in eviction cases will likely result in greater efficiency and administration of justice and could result in cost savings to the court system.

⁷⁹ Byrne, T., et al., “Examining the Intersection of Homeless Assistance Service Use and Jail Incarceration in the City of Boston,” City of Boston Department of Neighborhood Development (Forthcoming Publication).

⁸⁰ Byrne, T., et al., “Examining the Intersection of Homeless Assistance Service Use and Jail Incarceration in the City of Boston,” City of Boston Department of Neighborhood Development (Forthcoming Publication).

⁸¹ Desmond and Gershenson (2016), p. 55.

⁸² Note that other sources state that represented litigants may require more court time than unrepresented litigants. See, for example, Greiner, et al. (2013), p. 909.

g. Reduction in other societal costs related to evictions

In addition, even when an evicted family or individual does not end up experiencing homelessness (i.e., in the shelter system), there are often still societal costs from the eviction. A large proportion of evicted families and individuals end up staying with friends, family, or in “decrepit units in unsafe neighborhoods” for an extended period of time. Congestion at these residences can lead to domestic issues that can lead to lower productivity and impact the Commonwealth’s social services, such as education, health care, foster care, and law enforcement.⁸³

Similarly, if a court rules in favor of the plaintiff in an eviction proceeding, consumer reporting agencies may receive “information relating to eviction proceedings.”⁸⁴ Studies have shown that a “report containing negative information not only can make securing replacement housing difficult, but also can adversely affect the tenant’s ability to secure employment, insurance, or other business opportunities.”⁸⁵ Therefore, eviction may result in other collateral consequences for the Commonwealth, including loss of income tax revenue, use of unemployment benefits, and other well-documented costs related to unemployment.

h. Reduction in costs of executing involuntary evictions

Individuals and families who have been evicted may not immediately vacate the property. In these situations, the local constable is responsible for executing the eviction by removing the evicted tenant’s belongings from the premises. According to the Boston Department of Neighborhood Development, the cost of executing an eviction in subsidized housing is between \$5,500 and \$8,000.⁸⁶ These costs include attorney fees, lost rent if a tenant is unable to pay, repairs, move-out costs such as a constable summons, a locksmith, movers, and storage of tenant property, as well as staff time to find and re-occupy the unit.⁸⁷ In Boston alone in 2014, there were 1,056 executed evictions in subsidized housing,⁸⁸ suggesting that the annual cost of executing subsidized evictions was between \$5.8 million and \$8.5 million. In subsidized evictions, these costs fall on local housing authorities and constables’ offices.

⁸³ See Gudrais, Elizabeth, “Disrupted Lives” (“Many who are evicted end up in shelters or even on the street. When they do find housing, a record of eviction often means they are limited to decrepit units in unsafe neighborhoods. This transient existence is known to affect children’s emotional well-being and their performance in school; Desmond and his research team are also beginning to link eviction to a host of negative consequences for adults, including depression and subsequent job loss, material hardship, and future residential instability. Eviction thus compounds the effects of poverty and racial discrimination. ‘We are learning,’ says Desmond, ‘that eviction is a *cause*, not just a *condition*, of poverty’”) at <http://harvardmagazine.com/2014/01/disrupted-lives>.

⁸⁴ Spector, Mary, “Tenant Stories: Obstacles and Challenges Facing Tenants Today,” *The John Marshall Law Review*, Vol. 40, No. 2, 2007, pp. 407–423, at p. 416.

⁸⁵ Spector, Mary, “Tenant Stories: Obstacles and Challenges Facing Tenants Today,” *The John Marshall Law Review*, Vol. 40, No. 2, 2007, pp. 407–423, at p. 416; “Evicted for Life: How Eviction Court Records are Creating a New Barrier to Housing,” Massachusetts Law Reform Institute, 2019, available at https://www.passthohomesact.org/uploads/2/7/0/4/27042339/evicted_for_life_mlri_1.pdf.

⁸⁶ Boston Department of Neighborhood Development, “An Action Plan to Reduce Evictions in Boston,” December 2019, p. 16, available at https://www.boston.gov/sites/default/files/file/2020/01/An_Action_Plan_to_Reduce_Evictions_in_Boston_%28report%29%20200109_1.pdf.

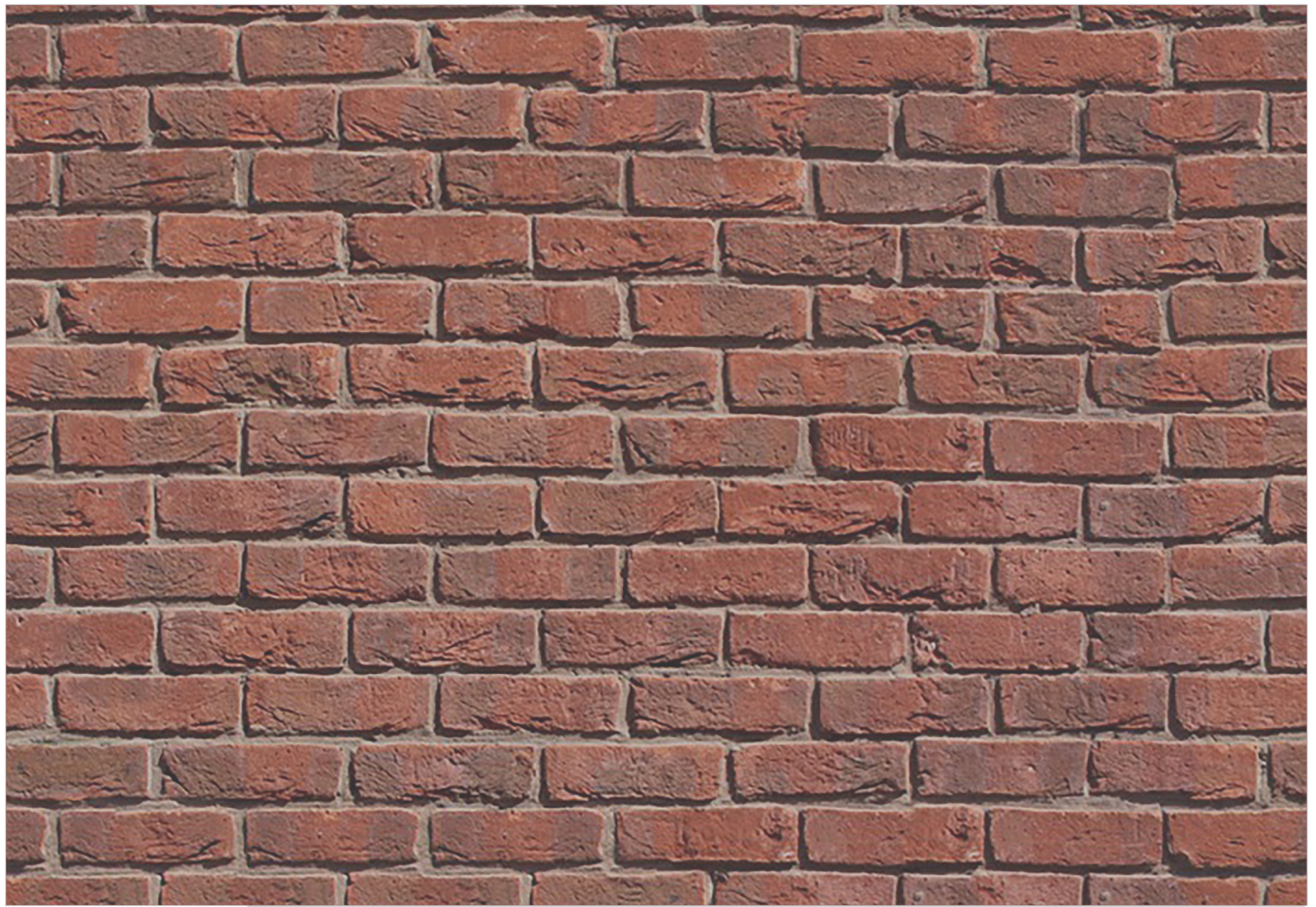
⁸⁷ Boston Department of Neighborhood Development, “An Action Plan to Reduce Evictions in Boston,” December 2019, p. 16, available at https://www.boston.gov/sites/default/files/file/2020/01/An_Action_Plan_to_Reduce_Evictions_in_Boston_%28report%29%20200109_1.pdf. Typically when a landlord and tenant come to an agreement through an agreement for judgment in which the tenant has the right to reinstate tenancy and stay in the apartment based on certain conditions, the landlord benefits from a repayment plan for rent and also saves on the cost of executing an eviction. See “MLRI 2005 Summary Process Survey,” available at https://www.masslegalservices.org/system/files/library/2005_summary_process_survey.pdf.

⁸⁸ Boston Department of Neighborhood Development, “Boston Housing Court Data Report: An Overview and Analysis of 2014 Boston Housing Court Data,” Fall 2016, p. 3, available at <https://static1.squarespace.com/static/5c61afb8c2ff616264f89964/t/5cba6802c4966ba200a5d899/1555720195217/2014-Housing-Court-Report-Summary.pdf>.

While there are no available data on the costs of executing evictions on the private market, these costs would fall on private property owners as well as local constables. As full legal representation leads to a decrease in the number of eviction cases in which tenants lose possession of their homes, fewer executed evictions would likely result in cost savings to local housing authorities, private property owners and constables' offices.

V. Conclusion

In conclusion, we have found that the full legal representation will help 15,969 people remain in their homes, and that the monetary benefits of representing eligible beneficiaries in eviction proceedings far outweigh the costs of providing these services. Specifically, we estimate that the total annual cost to represent all eligible beneficiaries in Massachusetts is approximately \$26.29 million, while the conservative estimate of annual net savings from representing this population is approximately \$63.02 million. In other words, for every dollar spent on full legal representation in eviction, the Commonwealth stands to save approximately \$2.40 in costs associated with the provision of other state services, such as emergency shelter, health care, and foster care. Additionally, there are many cost savings to the Commonwealth that cannot be quantified due to a lack of available data. These include cost savings associated with education, correctional facilities, employment and stability, court costs, and costs of executing evictions. Additional parties, such as municipalities, school districts, sheriffs' offices, constables' departments, and property owners stand to benefit from cost savings associated with the introduction of full legal representation in eviction proceedings.



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