

## How to Use the Courts

### Tenants' Rights in Massachusetts

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Deciding to go to court is not an easy decision to make. Going to court takes time and money. Also, you cannot be sure what will happen. But if you have a strong case, going to court can lead to negotiating a solution or winning.

### Am I a Plaintiff or Defendant?

#### Plaintiff

If you are taking your landlord to court you are the *plaintiff*.

#### Defendant

If your landlord is evicting you or taking you to court for another reason, you are the *defendant*.

### How can I get ready for court?

Be sure you don't miss your court date. If you do, you may lose your case.

- Take the whole day off from work.
- If you have children, arrange child care that is not at court.
- Get to court early so that you do not miss when your case is heard.
- Turn off or silence your cellphone before you go inside the courtroom.

### Protect Yourself Get Legal Help

#### Filing a Case Against Your Landlord

The court system is complicated. It has lots of rules and deadlines. If you take your landlord to court, you are usually better off if you can find a lawyer to represent you.

If you cannot pay up front, some lawyers take certain types of housing cases that make your landlord pay your lawyer's fees if you win. These types of cases involve:

- Retaliation
- Unfair or deceptive practices
- Consumer protection violations
- Violation of the security deposit law
- Interference with your "quiet enjoyment"

#### Fighting an Eviction

Many Housing Courts have Lawyer for the Day Programs that help low-income tenants facing eviction. They offer advice, and sometimes they will go into mediation or the courtroom with you. They also help homeowners facing eviction after a foreclosure.

Ask the clerk's office in your District or Housing Court how to find the Lawyer for the Day Program.

## Forms

Use preprinted forms to help make your case. You can get the forms you need online, at court, and from legal services offices and community groups.

- **Massachusetts Trial Court** has court forms: [mass.gov/courts/forms](https://www.mass.gov/courts/forms)
- **MassLegalHelp** has self-help housing forms and sample letters you can use: [Where to File Your Case](#)

You can file most landlord-tenant cases in Housing Court or District Court. If there is a Housing Court where you live, consider starting your case there. Housing Court staff know a lot about landlord and tenant disagreements. They often offer more support to tenants than District Courts.

## Court Fees

When you file a complaint in court, you must pay a filing fee. In Housing Court the fee is \$135. In District Court the fee is \$195. Defendants do not pay any fee to file an *Answer*.

If you cannot afford the fee, file an Affidavit of Indigency form. This form asks the court to let you file a complaint without paying a fee.

See **Affidavit of Indigency (Booklet 10)**.

## Serving a Complaint

You must let your landlord know you are taking them to court. When you file a complaint, the clerk will give or mail you a *summons and complaint*. You must have the summons and complaint *served* on your landlord. You cannot serve it yourself. You pay a Sheriff or Constable \$50-65 to serve your landlord. You can include these fees in an Affidavit of Indigency.

## Interpreters

If it is hard for you to understand or speak English, you have the right to an interpreter in court. It does not matter what your native language is. The court is supposed to give you a free interpreter.

Call the court clerk a head of time to tell the court clerk you need an interpreter. You can ask for an interpreter when you get to court, but it is better to ask ahead of time.

For a Spanish language interpreter email a request to:

[spanishaccess@jud.state.ma.us](mailto:spanishaccess@jud.state.ma.us)

For interpreters for other languages email a request to:

[lotsaccess@jud.state.ma.us](mailto:lotsaccess@jud.state.ma.us)

## Mediation

Housing Courts and some District Courts have mediators to help landlords and tenants come to an agreement. Community groups also offer mediation services before you get to court. Mediation is voluntary.

## What else should I know about going to court?

**Before you sign an agreement, read it carefully.** Be sure that you understand it and can follow what it says you must do. It is unlikely that a judge will let you change the terms of the agreement after you sign it.



For more, scan the QR code to see **Legal Tactics, Chapter 14: Using the Court System** [MassLegalHelp.org/Use-the-Courts](https://MassLegalHelp.org/Use-the-Courts)