



Testimony of Ruth A. Bourquin, Greater Boston Legal Services

On House Bill 659, An Act to protect families experiencing homelessness from having to sleep in unsafe places.

**Before the Joint Committee on Housing
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My name is Ruth Bourquin. I currently am a Senior Attorney in the Greater Boston Legal Services (GBLS) Housing Unit, specializing in matters related to families accessing and retaining access to Emergency Assistance (EA) shelter benefits. Prior to joining GBLS last fall, I worked for 18 years at the Massachusetts Law Reform Institute. Since 2009 when administration of the EA shelter system was transferred to the Department of Housing and Community Development (DHCD), I have spent nearly 100% of my time working on EA shelter issues.

In FY 2012, the Legislature adopted an amended version of a proposal from the Patrick Administration to restrict access to EA shelter services. St. 2011, c. 68, section 2, item 7004-0101. The Patrick Administration had proposed expressly to limit eligibility for EA shelter to four narrow categories of families (those who were in domestic violence situations, those who become homeless due to fire, flood or natural disaster, those evicted for pure no fault reasons, and those doubled up in housing situations that are extremely unsafe. In response, the Legislature adopted language that continues to this day in the EA line item, providing that eligible families “shall include” families in four categories that were expanded beyond what the Administration had proposed. This included expanding the fourth category to make eligible those families who have become so desperate that they have had to stay in a place not meant for human habitation and face a substantial risk if that situation continues.

At the time the fourth category was expanded by the Legislature, I and others in the advocacy community were hopeful that the Administration would not actually require families to sleep in places not meant for human habitation before they would be eligible, but instead would place them in shelter for the safety of the children when it was clear that they would have to stay in such places if they were not placed in shelter.

However, the Patrick Administration first and now the Baker Administration has continued to require that families who are not otherwise eligible actually have to sleep in a place not meant for human habitation before becoming eligible.

This policy has been devastating for many families. I personally have represented many families who have lost all options for staying with acquaintances or even strangers and have had to stay in emergency rooms, in cars, on beaches, and in abandoned buildings with their children before becoming eligible for shelter. Indeed, according to DHCD’s own report, during just the first eleven months of FY 17, at least 554 families stayed in a place not meant for human habitation before becoming eligible for shelter.

<http://www.mass.gov/hed/docs/dhcd/hs/ea/eamonthlyreport.pdf>. In FY 16, approximately 648

families were approved for shelter only after staying in places not meant for human habitation. <http://www.mass.gov/hed/docs/dhcd/hs/ea/fy16q4eareport.pdf>.

Putting these families through this trauma is inhumane and saves the EA program virtually no money. A one night stay in a place not meant for human habitation qualifies an otherwise eligible family for EA shelter. Hence the difference is the cost of only one night in shelter, or approximately \$100 per family. On the other hand, forcing families into these dire circumstances destabilizes them further, causes children to have to miss school and need remedial education services at greater expense to the Commonwealth; causes parents to have to miss work and sometimes lose their jobs – causing loss of tax revenue and longer stays in the shelter system because they then have fewer resources to secure housing; and causes these families to need more medical care, including for mental health care, at much greater expense to the Commonwealth.

Moreover, the tone that has been set by this harsh policy has had ripple effects throughout the system. Empowered to deny families shelter until they become so very desperate that they have to sleep in cars, etc., DHCD often does not immediately place even families who are eligible under these strict rules as is required by the presumptive eligibility language of the line item. Instead, DHCD forces families to obtain verifications that they are supposed to be allowed to obtain within the first 30 days after a shelter placement before they will be placed. One recent example is a family who was eligible based on having engaged in a long period of “irregular housing” – bouncing from place to place to place – but was forced by DHCD to obtain a letter from one of the host’s landlords, which should have been irrelevant. As a result, the family then had to spend the night in a hospital emergency room because it had no other options. Other families are told they cannot be placed because they allegedly caused their own homelessness, even when that is not a disqualifying factor.

Another family informed DHCD that they were sleeping on the floor of a 1 bedroom subsidized apartment with a total of 13 people sleeping there. This should have triggered a presumptive placement based on health and safety risk. But instead, placement was put off while DHCD had DCF conduct a Health and Safety Assessment that, predictably, found there was a real health and safety risk. In the meantime, the people living in this space barely got any sleep because they had to get up at 4 a.m. to start taking turns to use the bathroom and kitchen and had to deal with other residents coming in at night and walking over them on the floor.

This example and so many others like it highlight another problem with the current policy. It forces low-income families or acquaintances in the community to have to take in relatives or friends to keep them off the street, shifting the burden of sheltering low-income homeless families from the state, where the responsibility belongs, to other low-income families, primarily in concentrated areas of poverty. This situation is in violation of the principles behind the federal Fair Housing Act, 42 U.S.C. § 3601, and basic human decency.

Adding to the inhumanity is the fact that many families report that some DHCD workers tell families that if they report that they have stayed in a place not meant for human habitation, the Department of Children and Families (DCF) will be called to take away their children, which is inconsistent with the law, which does not allow DCF to remove children solely because of lack of housing. But it is a tactic used to deter families from pursuing their application for EA shelter. Such tactics are, in our view, encouraged by the callous state policy that allows families to be

denied shelter even when they are on the cusp of having to stay in a place not meant for human habitation, but have not done so yet.

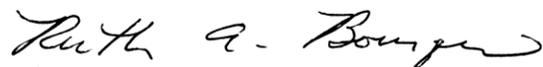
Another factor causing children to have to stay in places not meant for human habitation and other unsafe places is that DHCD does not have enough shelter placements in areas of high demand, such as Greater Boston. This results in DHCD offering only far away placements, in spite of line item language directing the agency to make “every effort” to ensure children can continue in their schools and requiring the agency to place families “as close as possible” to their home communities and transfer them to within 20 miles “at the earliest opportunity.” This in turn places families on the horns of awful dilemmas: whether to take a far-away placement that rips children from school, parents from jobs, and family members, including persons with disabilities, away from important medical care. As a result, families sometimes decline the placement while awaiting a closer one and have to return to places not meant for human habitation in the meantime. I personally represented one such family in recent weeks who chose to sleep in their car for several more nights so that the mother did not lose her job. DHCD’s policies in this regard, or more accurately lack of policies, are being challenged in a class action lawsuit pending in Suffolk Superior Court.

A relevant case that arose recently involved a family in which both the father and the child are severely disabled. The father has had a stroke and has great difficulty walking. The 6-year old child was born with birth defects and cannot sit up or walk. They do not have a stroller that accommodates her. The mother has to carry the child in her arms everywhere they go. They had been staying doubled up with another family for weeks, having to sleep on the hard floor. They were approved for EA shelter based on advocacy by my office but were not placed for many days, and forced to continue to sleep on the floor. Finally, DHCD said they would be placed but, because they could find no placements that were handicapped accessible, and because DHCD is now generally refusing to use EA funds to pay for motel rooms even when needed to accommodate disabilities, the family ended up being placed in a motel room in Saugus. However, DHCD said it was a “non-EA placement” being funded with funds other than EA dollars, so as to preserve the fiction that motel rooms are not needed in the EA program. Another family with eight family members also recently was placed in such a non-EA shelter situation because there were no EA rooms to accommodate them. Families in such “non-EA” shelter placements are denied their rights to re-housing and other EA services.

DHCD often asserts that Massachusetts is a so-called “right to shelter” state, but the way the system is being administered and the harsh eligibility standards being applied belie that label.

It is unconscionable that families have to sink to such desperate straits simply to obtain emergency shelter for their children. I ask you please to report this bill out favorably and use all your efforts to ensure that it becomes law as soon as possible.

Respectfully submitted,



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