



## Testimony in Support of Lifting the Cap on Kids H. 104 and S. 37

**Submitted on Behalf of the Coalition to Lift the Cap on Kids\***  
**To the Joint Committee on Children, Families and Persons with Disabilities**

March 5, 2019

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Joint Committee on Children, Families, and Persons with Disabilities  
State House  
34 Beacon Street  
Boston, MA 02133

Dear Chairwoman Khan, Chairwoman Chang-Diaz, and Members of the Committee:

Mass. Law Reform Institute submits these comments on behalf of the Coalition to Lift the Cap on Kids and on behalf of very low-income families across Massachusetts. We strongly support Lifting the Cap on Kids – that is, repealing the welfare family cap rule – as soon as possible.

As you know, the Legislature enacted family cap repeal as part of the FY 2019 budget. The Governor returned the family cap repeal provision with an amendment that would have cut off benefits for thousands of children with a disabled parent. The Legislature rejected the amendment and reenacted family cap repeal in a separate bill, H. 4823, but the Governor vetoed the bill after the formal legislative ended.

The text of the re-filed bills repealing the family cap, H. 104 and S. 37, is exactly the same as the language that was included in the FY 2019 budget and H. 4823. We are grateful that the Committee scheduled these bills for its first hearing of the 2019-2020 legislative session. We hope that family cap repeal – fully vetted and enacted in the last session – will soon be re-enacted (for the third time!) so that children will not have to wait longer for a clean diaper, will not have to stay at home while others go on a school trip, and will no longer be treated as if they do not exist.

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\* A list of supporting organizations is attached.

## Overview

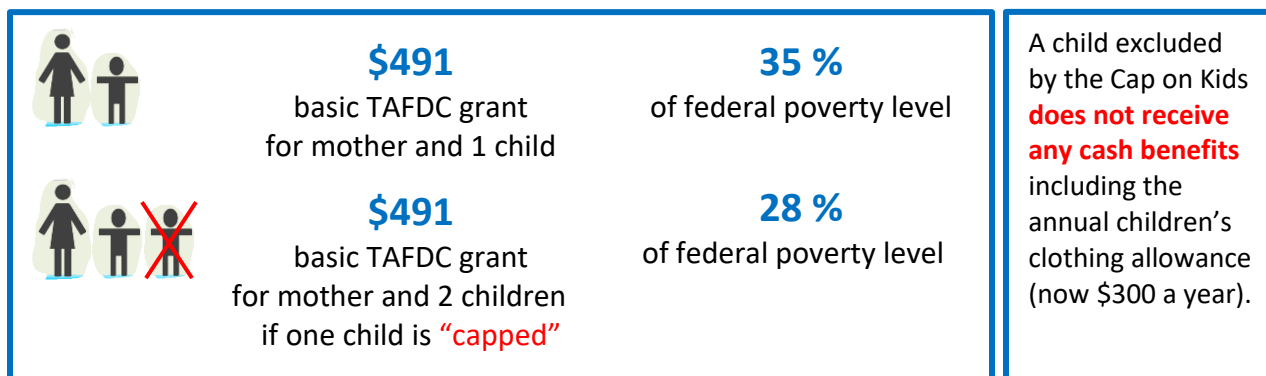
### **The TAFDC Cap on Kids denies TAFDC to children born after the family first received TAFDC.**<sup>1</sup>

Massachusetts enacted the Cap on Kids in February 1995.<sup>2</sup> At the time, the federal Aid to Families with Dependent Children (AFDC) program barred states from adopting eligibility rules based on accidents of birth. The Governor, William Weld, applied for a waiver from the federal government to implement the Cap on Kids. The Clinton Administration approved the waiver effective October 1995 and the state began implementing it soon after. On August 22, 1996, Congress enacted and President Clinton signed federal “welfare reform” legislation which removed the federal barrier to state family cap laws, including the Massachusetts Cap on Kids.

### How the Cap on Kids operates

In general, welfare benefits go up by about \$100 a month as family size increases. For example, the basic grant for a family of two with no countable income is \$491 a month; the basic grant for a family of three is \$593 a month. But a family of three with a child excluded by the Cap on Kids receives only \$491 a month, a **cut of 17 %**.

**The Cap on Kids hurts children born to very low-income mothers. It also hurts the child’s older sisters and brothers.**



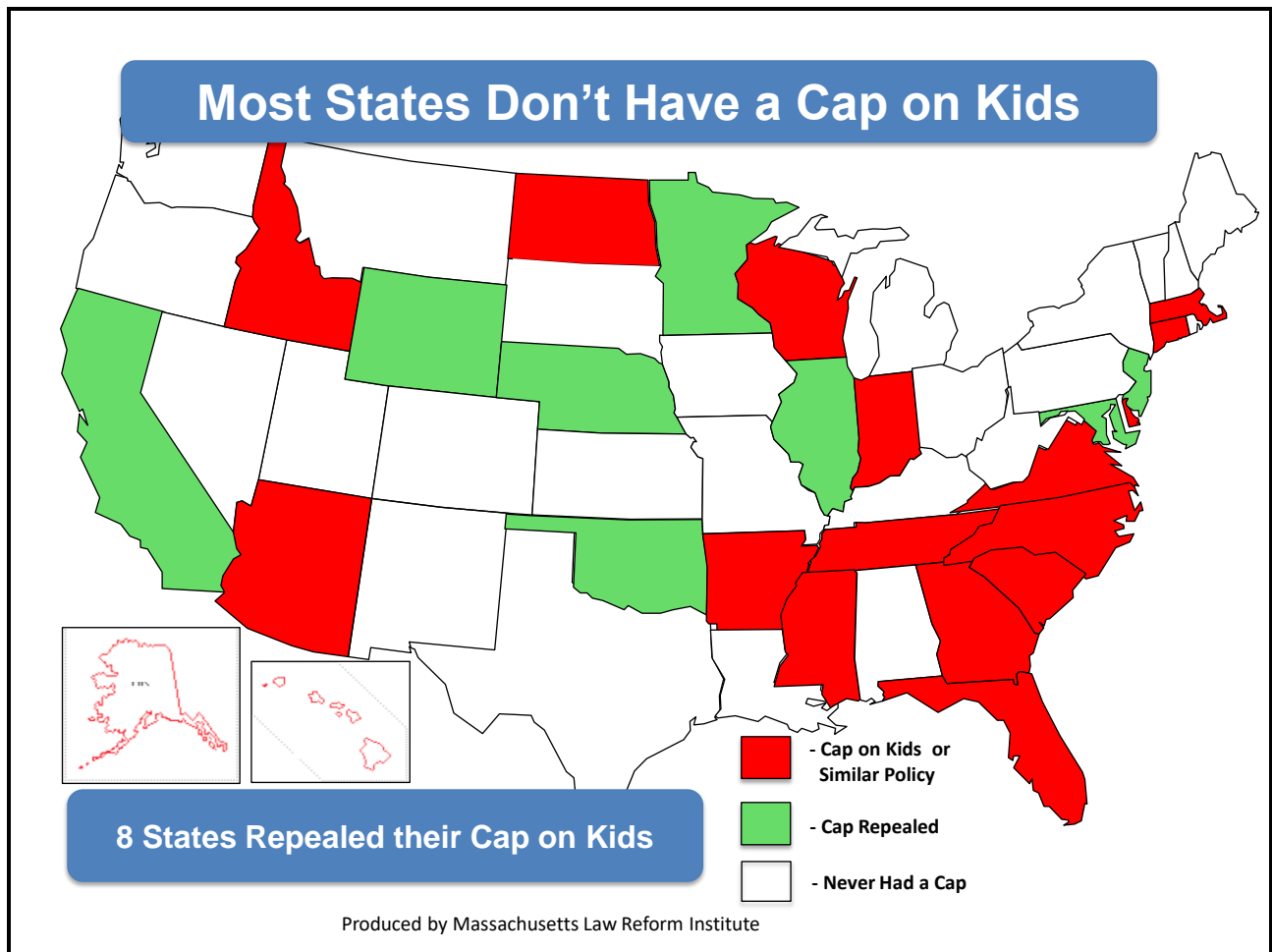
Children excluded by the Cap on Kids— and their older siblings – face increased risks of homelessness and other hardships associated with extreme poverty, including cognitive, emotional, and physical health challenges.<sup>3</sup> A common issue is the inability to pay for enough diapers to keep the child clean, dry and healthy. Parents sometimes have to stay home from work or school because – without a supply of diapers – their kids can’t go to child care.<sup>4</sup>

**Currently, Massachusetts denies TAFDC to 8,700 children because of the Cap on Kids.**

## Facts and stereotypes

- Welfare families on average are the same size as families in the general population.<sup>5</sup>
- Massachusetts and other states adopted Family Cap policies even though there was no evidence that welfare recipients had additional children to get a small increase in their families' grants.<sup>6</sup>
- Family caps in Massachusetts and elsewhere did not reduce childbearing by welfare recipients.<sup>7</sup>
- In Massachusetts and elsewhere, some legislators were motivated by the idea that poor people of color were irresponsible reproducers of "illegitimate" children.<sup>8</sup>

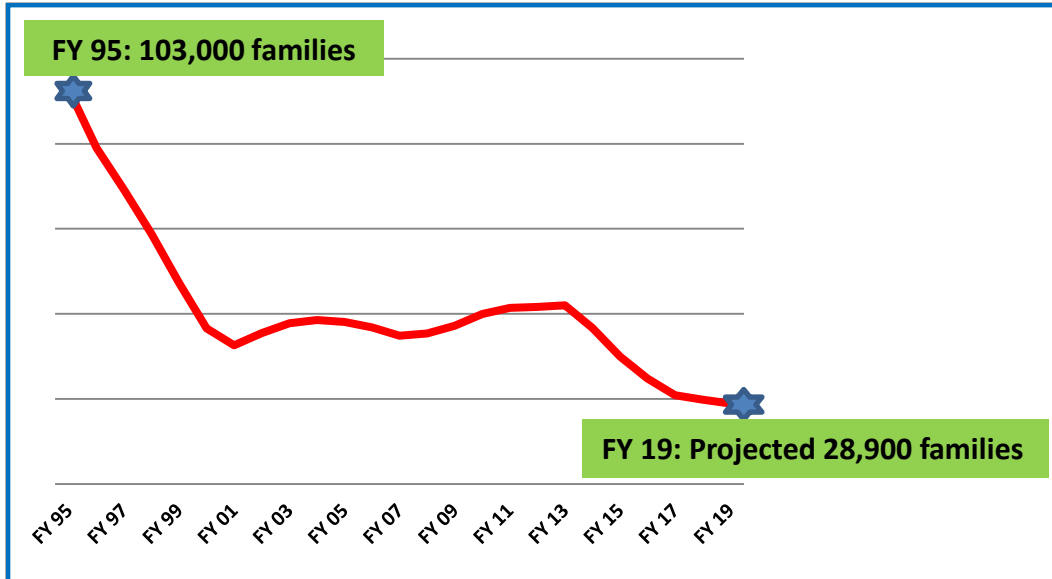
## Most states don't have a Cap on Kids.



Twenty-six states never adopted a Family Cap. Eight states – Maryland, Illinois, Nebraska, Wyoming, Oklahoma, Minnesota, California and New Jersey– repealed their Family Caps. Massachusetts is one of only sixteen states that still have a Family Cap or similar policy.<sup>9</sup> California repealed its family cap rule effective January 2017. The New Jersey legislature repealed the state's family cap rule in 2016, but Governor Chris Christie vetoed the repeal. The New Jersey legislature enacted repeal again in 2018, and it was signed into law by Governor Phil Murphy.

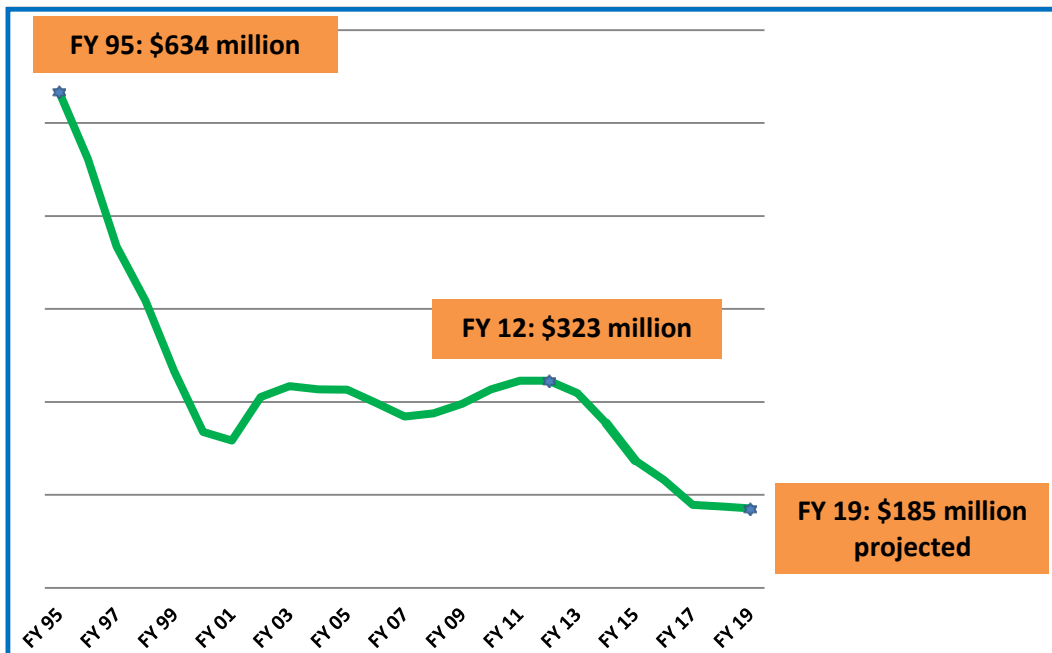
# We can afford to give Massachusetts children the chance they deserve.

- The welfare caseload has dropped dramatically since 1995.



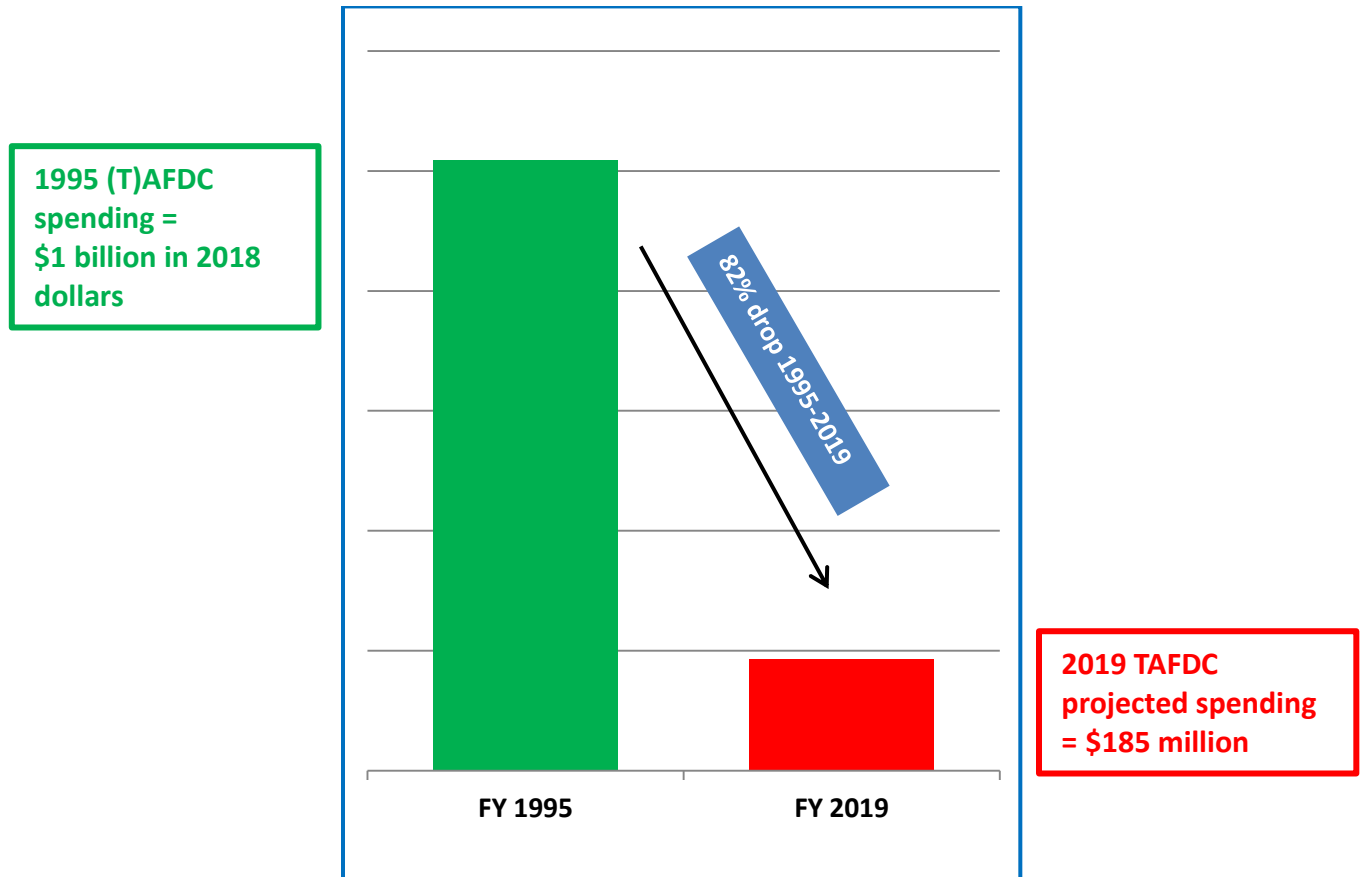
Source: Dep't of Transitional Assistance, Mass. Law Reform Inst.

- Spending on TAFDC has plummeted even without adjusting for inflation.



Source: Dep't of Transitional Assistance, Mass. Law Reform Inst., Mass. Budget and Policy Center

- Inflation-adjusted TAFDC spending has dropped 82% since 1995.



Source: Dep't of Transitional Assistance, Mass. Law Reform Inst., Mass. Budget and Policy Center

- A small part of the savings from the decline in the caseload can be directed to Lifting the Cap on Kids.

It would cost about \$13 million a year to Lift the Cap on Kids.<sup>10</sup> Massachusetts' *nominal* spending for TAFDC is about \$450 million a year *less* than in FY 1995 when the Cap on Kids was enacted. Nominal spending just since 2012 has dropped by \$138 million. The drop since 2012 alone would pay for 10 years of Lifting the Cap on Kids.

The cost of Lifting the Cap on Kids should be measured against the high costs of children growing up in extreme poverty.<sup>11</sup>

## It's time to Lift the Cap on Kids!

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<sup>1</sup> Massachusetts rules, 106 CMR § 203.300, allow a waiver or exception to the Cap on Kids where the child was born as a result of rape, incest or sexual assault; the child was conceived after the family left TAFDC if the case was closed long enough; the child had to leave her parent's home because the parent died, became disabled, gave up legal custody, or is institutionalized; or the child was born because of "extraordinary circumstances" – not defined, and rarely applied. There is no exception where the Cap on Kids causes extreme hardship.

<sup>2</sup> St. 1995, c. 5, § 110(a), (c).

<sup>3</sup> Burnham, L. & Desai, A., *California's Child Exclusion Law Attacks Women and Children's Rights*, 16 *Race, Poverty & the Environment* 1, 38 (2009). Children under age three in families whose welfare benefit is decreased, including because of family cap policies, are at greater risk of food insecurity and being hospitalized compared with children in families receiving the full TANF benefit. Cook, J.T., et al., *Welfare Reform and the Health of Young Children*, *Archives of Pediatric and Adolescent Medicine* 156 (2002). See also Duncan, G. and Magnuson, K., *The Long Reach of Child Poverty* (Winter 2011), [http://inequality.stanford.edu/sites/default/files/PathwaysWinter11\\_Duncan.pdf](http://inequality.stanford.edu/sites/default/files/PathwaysWinter11_Duncan.pdf).

<sup>4</sup> See, e.g., Smith, M., et al., *Diaper Need and Its Impact on Child Health*, 132 *Pediatrics* 253 (Aug. 2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3727676/pdf/peds.2013-0597.pdf>.

<sup>5</sup> MA families on average have 1.8 children. U.S. Census Bureau, American Community Survey, 2015. TAFDC families on average also have about 1.8 children. MLRI Calculations from Dep't of Transitional Assistance data.

<sup>6</sup> Smith, R., *Family Caps in Welfare Reform: Their Coercive Effects and Damaging Consequences*, 29 *Harv. Journal of Law and Gender* 151, 157-58 (2006).

<sup>7</sup> Romero, D. and Agenor, M., *U.S. Fertility Prevention as Poverty Prevention: An Empirical Question and Social Justice Issue*, 19 *Women's Health Issues* 355, 361 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2775139/>; Dyer, W., and Fairlie, R., *Do Family Caps Reduce Out-of-Wedlock Births? Evidence from Arkansas, Georgia, Indiana, New Jersey and Virginia*, 23 *Population Research and Policy Review* 441 (2004, <https://link.springer.com/article/10.1007/s11113-004-3462-6>).

<sup>8</sup> See Bridges, K., *Reproducing Race: An Ethnography of Pregnancy as a Site of Racialization* (2012); Summary of Massachusetts General Court debate on the Family Cap (1994-1995), on file with Mass. Law Reform Institute.

<sup>9</sup> AR, AZ, CT (reduced grant), DE, FL (reduced grant), GA, ID, IN, MA, MS, NJ (no cap if adult is working), NC, ND, SC (food and clothing paid in form of voucher), TN, VA, WI. The NJ legislature voted for repeal in 2016; Gov. Christie vetoed repeal. NJ legislature enacted repeal again in 2018; Gov. Murphy signed repeal into law.

<sup>10</sup> Dep't of Transitional Assistance in March 2018 estimated the cost of repeal at between \$12.8 M and \$13.1 M for FY 19 based on current caseloads.

<sup>11</sup> Holzer, H., et al., *The Economic Costs of Poverty in the United States: Subsequent Effects of Children Growing Up Poor* (January 24, 2007), <https://www.americanprogress.org/issues/poverty/reports/2007/01/24/2450/the-economic-costs-of-poverty/>; Ratcliffe, C. and McKernan, S., *Child Poverty and Its Lasting Consequence* (Sept. 2012), <http://www.urban.org/research/publication/child-poverty-and-its-lasting-consequence>; Cook, J., et al., *Estimating the Health-Related Costs of Food Insecurity and Hunger*, 2016 Hunger Report, Appendix 2, <http://hungerreport.org/2016/wp-content/uploads/2015/11/HR2016-Full-Report-Web.pdf>; Cook, J., et al., *A \$2.4 Billion Cost: The Estimated Health-Related Costs of Food Insecurity and Hunger in Massachusetts* (March 2018), <http://childrenshealthwatch.org/wp-content/uploads/MA-Health-Related-Costs-of-Hunger-Full-Report.pdf> See also note 3 above.



# Supporting Organizations

1199 SEIU  
Acord Food Pantry  
Action for Boston Community Development, Inc.  
Action Inc.  
Alliance of Massachusetts YMCAs  
American Civil Liberties Union of Massachusetts  
Amherst Survival Center  
ARISE for Social Justice  
Asian American Civic Association  
Asian American Resource Workshop  
Asian Task Force Against Domestic Violence (ATASK)  
Association of Haitian Women (AFAB)  
Berkshire Community Diaper Project  
Beverly Bootstraps  
Boston Area Rape Crisis Center  
Brazilian Women's Group  
Brookview House, Inc.  
Cambodian Mutual Assistance Ass'n  
Cambridge Economic Opportunity Committee  
Cape Cod Children's Place  
Casa Myrna  
Catholic Charities of the Archdiocese of Boston  
Catholic Social Services of Fall River, Inc.  
Center for Violence Prevention & Recovery, Beth Israel  
Deaconess Medical Center  
Central West Justice Center  
Charles Hamilton Houston Institute for Race and Justice  
Chelsea Collaborative  
Children's HealthWatch  
Children's Law Center of Massachusetts  
Chinese Progressive Association  
City Life/Vida Urbana  
City Mission Boston  
Clarendon Early Education Services, Inc.  
Coalition for Social Justice  
Community Action Agency of Somerville, Inc.  
Community Action Pioneer Valley  
Community Legal Services and Counseling Center  
Cradles to Crayons  
Domestic Violence Action Committee in Needham  
DOVE  
Economic Mobility Pathways (EMPath)  
Elizabeth Freeman Center, Inc.  
Family ACCESS of Newton  
Fenway Health/AIDS Action Committee  
Greater Boston Food Bank  
Greater Boston Legal Services  
HarborCOV  
Heading Home, Inc.  
Health Care for All  
The Home for Little Wanderers  
Homes for Families  
HomeStart, Inc.  
Horizons for Homeless Children  
Islamic Society of Boston Cultural Center  
Jane Doe Inc.  
Jewish Alliance for Law and Social Action (JALSA)  
Jewish Community Relations Council  
Jewish Family and Children's Service  
Justice Center of Southeast MA  
Lawyers' Committee for Civil Rights & Economic Justice  
League of Women Voters of Massachusetts  
Lynn Economic Opportunity, Inc.  
Massachusetts AFL-CIO  
Massachusetts Alliance of Portuguese Speakers  
Massachusetts Alliance on Teen Pregnancy  
Massachusetts Advocates for Children  
Mass. Association of Early Education and Care (MADCA)  
Mass. Association for Community Action (MassCAP)  
Mass. Chapter American Academy of Pediatrics  
Massachusetts Coalition for the Homeless  
Massachusetts Family Planning Association  
Mass. Immigrant and Refugee Advocacy (MIRA) Coalition  
Massachusetts Jobs With Justice  
Massachusetts Law Reform Institute  
Massachusetts Public Health Association  
Massachusetts Teachers Association  
Medical-Legal Partnership | Boston  
Mental Health Legal Advisors Committee  
Metrowest Legal Services  
MotherWoman  
Muslim American Society of Boston  
New England Area Conference of NAACP  
New England Jewish Labor Committee  
NARAL Pro Choice Massachusetts  
National Association of Social Workers, Mass. Chapter  
Neighbor to Neighbor  
North Shore Postpartum Help  
Northeast Justice Center  
Northeastern University School of Law Clinics  
Nurtury  
The Open Door  
Open Pantry Community Services Inc.  
Parenting Journey  
Pathways for Children  
Planned Parenthood Advocacy Fund  
Poor People's United Fund  
Progressive Massachusetts  
Project Bread  
Project Hope  
REACH Beyond Domestic Violence, Inc.  
Roca  
Rosie's Place  
Safe Passage  
SEIU 32BJ Local 615  
SEIU Local 509  
ServiceNET  
Sisters of St. Joseph of Boston  
Somerville Homeless Coalition  
Springfield Housing Authority  
Springfield No One Leaves  
Stavros  
Those Who Can for Those In Need  
Transition House  
UAW Region 9A CAP Council  
Union of Minority Neighborhoods  
United Way Mass. Bay and Merrimack Valley  
UTEC  
Vietnamese American Civic Association  
Vietnamese American Community of Massachusetts  
Wellspring House, Inc.  
Witnesses to Hunger, Boston  
Womanshelter/Compañeras  
Women's Bar Association of Massachusetts  
Worcester County Food Bank  
Worcester Food Policy Council