

# Legal Support for Renters



### What does “Legal Support for Renters” mean?

Legal Support For Renters policies address the legal representation gap in eviction proceedings (roughly 3% of tenants have access to counsel, compared to 81% of landlords) by providing a right to a lawyer for tenants facing eviction that is guaranteed by law and funded by the state or local government. As of February 2022, 16 jurisdictions (13 cities and 3 states) have established such a right.

Where a state or local government has increased funding to ensure eligible tenants have representation, but has not enacted an ordinance or other law codifying this practice as a right, it is not considered to have a Legal Support for Renters “policy.”

### Why is it so important to make sure all renters facing eviction have legal representation?

Every year, 3.6 million individuals face the loss of their home via eviction. Evictions wreak devastation on individuals and families. Tenants risk not only losing their homes and possessions, but also experiencing homelessness, negative physical or mental health consequences, loss of child custody and employment, and educational disruption. Moreover, an eviction record follows a tenant, dimming chances for future housing accessibility and stability.

Despite these consequences, the vast majority of renters face these cases on their own because they are low income, no private market offering such services exists, or government-funded legal services programs are dramatically underfunded such that they must turn away half of those seeking support. Many tenants never seek legal assistance due to the disempowering experiences they or others they know have had with eviction pro-

ceedings, which has led them to believe that obtaining a just result from a housing court is impossible.

Tenants who go it alone encounter a legal process that involves complex substantive and procedural laws and rules. Where a landlord has violated the law, the tenant is not likely to recognize this on their own, and courts themselves do not screen evictions to ensure the complaints are valid. Eviction proceedings held remotely have been beset with due process issues attributable to the digital divide, with one-fourth of rural Americans lacking access to broadband and countless others unable to participate due to smartphone shutoffs, lack of familiarity with technology, or inadequate connection information provided by courts.

### What difference does it make for a tenant to have a lawyer in eviction cases?

Studies have repeatedly suggested that represented tenants are more likely to remain housed while also obtaining necessary repairs. If the tenant must or wants to vacate, represented tenants obtain additional time, pay less in arrears, and often avoid having the eviction on their record, all of which dramatically improves the chances of securing and maintaining new housing. Where it’s been implemented, the right to counsel has led to decreased filing rates as well as far lower numbers of tenants who default (i.e., decline to respond to the eviction case and so lose by default). Here’s what we know from the cities that have already implemented the right to counsel for tenants:

New York City: A 2021 report shows that 84% of represented tenants remained in their homes.

San Francisco: Data on outcomes between March and December 2021 shows that 59% of fully represented tenants remained in their homes. Of the 30% receiving



full representation who did not remain in their unit, 70% received a favorable settlement, such as a move-out agreement that provided sufficient time to the tenant.

Cleveland: A 2022 [report](#) shows that 93% of clients avoided an eviction judgment or an involuntary move. Legal aid also helped 81% of clients obtain rental assistance who didn't know about it but wanted it when they learned of it. 92% of clients who wanted additional time to move, and 97% who sought monetary relief, were able to get it.

### What are the equity implications for Legal Support for Renters policies?

Eviction is a major equity issue. Tenants of color disproportionately face eviction, and in particular, [Black women face eviction filing twice as often as white renters](#). Both Black and Latinx women are [disproportionately threatened](#) with eviction. A right to counsel in eviction proceedings, combined with a robust outreach campaign, can help ensure that communities of color have access to legal representation, which is a demonstrably effective intervention in eviction matters.

### How much does it cost to have a Legal Support for Renters policy?

The cost of a Legal Support for Renters policy varies by jurisdiction. This is due to differences in the cost of hiring attorneys, the number of eviction filings, and the number of cases an attorney can handle in that juris-

diction (which to some degree depends on the complexity of the landlord/tenant law).

However, there is another important consideration: [numerous studies](#) have shown that cities and states are projected to save far more than they spend. This is because lawyers prevent evictions that would otherwise incur social safety net expenditures such as homeless shelters, foster care, and emergency health services related to homelessness. For example, a [study of New York City's program](#) estimated that the city would save \$320 million, owing in part to the fact that the city spends more than \$1 billion annually on homeless shelter services. Similarly, a [Baltimore study](#) found that for every dollar invested in right to counsel, the city and state would save a combined \$6.24.

### How does a Legal Support for Renters policy get enacted at the city level?

Jurisdictions have enacted the right to counsel either by passing a city ordinance or, where available, using the [ballot initiative/measure process](#). These efforts typically involve a tenant / organizer-led campaign at the outset, some data gathering about local eviction practices, bill language drafting, committee hearings with testimony, and a vote by the full legislative process. The process of passing local legislation is best documented by the [Right to Counsel NYC Coalition](#) in the form of a [toolkit](#) and a [documentary](#).

## What does an enacted Legal Support for Renters policy include?

The most important component is a guarantee that an eligible tenant will have representation in a covered eviction proceeding. This guarantee is what sets a right to counsel apart from increased legal aid funding. Such laws also specify that eligible tenants are entitled to full representation, while ineligible tenants may receive lesser services such as brief advice.

The laws also specify what is a “covered proceeding.” In addition to court eviction proceedings, covered proceedings often include administrative proceedings to terminate a housing subsidy. Enactments also include findings related to purpose and significance, details as to how the tenant will be notified of their right to counsel, reporting requirements, which organizations are empowered to deliver services (often restricted to nonprofits), and an implementation timeline. One other critical component is establishing which entity will oversee the program: this is often, but not always, a city office.

## Does Legal Support for Renters policies cover every tenant?

A right to counsel *should* cover every tenant facing any kind of eviction proceeding: even tenants that are “over income” typically cannot afford a market-rate attorney. However, a number of cities have limited the right to counsel to specific groups of tenants, and to specific cases or stages of a case.

**Income limits:** Most cities define an eligible tenant or household as one meeting a certain percentage of the federal poverty guidelines or the local area/state median income. In San Francisco, Boulder, and Kansas City, the right to counsel is not dependent on income. Data from San Francisco show that despite no income limit, 85% of those receiving counsel are extremely low or low income.

**Family composition:** Some cities, like Cleveland and Louisville, have also required that eligible households have at least one child.

## How do cities fund Legal Support for Renters policies?

A right to counsel is a government guarantee that carries with it a governmental fiscal obligation. Cities

with a right to counsel for tenants are funding it in a variety of ways.

**General Revenue:** This is by far the most common way to pay for right to counsel.

**Tax / Fee Increase:** Boulder has increased its rental license excise tax to \$75 in order to fund its program. This option is dependent on a city’s authority to increase taxes / establish new taxes.

**Private / Public Partnership for Bridge Funding:** In Cleveland, the United Way is not only charged with overseeing implementation, but is also temporarily providing funding to supplement the city’s contribution. It is understood that the United Way’s contribution is not sustainable and that ultimately the program must be a city (and/or county) obligation.

**Federal Rental Assistance Program Funding:** Several jurisdictions have used federal emergency rental assistance funds to temporarily pay for Legal Support for Renters. As with private funding, this can serve as a temporary solution but ultimately must be transitioned to a long-term government funding source.

## Once a city enacts a Legal Support for Renters policy, who provides the legal services?

Ultimately, it is the city’s responsibility to ensure that there is representation for all eligible tenants in the city. Cities do not themselves provide the attorneys, but rather enter into contracts with and fund legal aid providers. Legal aid providers that already provide eviction defense services are generally the best choice because they already have expertise and infrastructure to ramp up a right to counsel program quickly and effectively. The main concern is to ensure that funding encompasses extensive training and adequate supervision for the attorneys. Where legal aid providers are LSC grantees with restrictions on who they can represent, they must ensure there is a referral process set up with non-LSC providers so that all tenants eligible for legal services are ultimately represented.

## Once a city enacts a Legal Support for Renters policy, who oversees the program?

Cities have used a variety of models for implementation and oversight. Some, like New York City, have

created a new office (the Office of Civil Justice) under an existing agency (the Human Resources Administration) to coordinate the program. That office oversees implementation, directs funding to existing legal aid providers in the city, and authors the annual report. Other cities delegate implementation and oversight to existing departments, such as the Department of Housing and Community Development in Kansas City. Still others have subcontracted initial implementation and oversight out to a nonprofit, such with the United Way in Cleveland.

### What is included in “limited coverage” v. “enhanced coverage?”

“Limited coverage” means that the right to counsel extends to court-based eviction proceedings only. “Enhanced coverage” refers to a program where the right to counsel extends to related proceedings, such as terminations of a rental subsidy that occurs in the administrative context (as such terminations end the tenant’s ability to pay for the unit and thus are functionally an eviction) or affirmative litigation to enforce certain housing laws, such as antidiscrimination laws.

### Will the courts be overwhelmed with cases if a Legal Support for Renters policy is passed?

No. After New York City enacted its right to counsel law, housing court judges testified that the new law raised court efficiency and fairness. The introduction of an attorney for the tenant can streamline a number of processes (negotiation, motion practice, arguments, etc). Moreover, Legal Support for Renters is focused on tenants as defendants, and thus is addressing existing case filings. Finally, even where there is a right to counsel, the vast majority of cases settle out of court, with the difference being that the settlement is more equitable to both parties instead of being dictated by the landlord’s attorney.

### What role do counties play in a city right to counsel?

In many circumstances, the county’s residents and the city’s residents significantly overlap, meaning the county has an interest in a citywide ordinance. Financial benefits from a city ordinance (such as avoided shelter costs) may accrue to the county in addition to or instead of to the city. In some areas the courts are controlled by the county, not the city, and thus it is easier to implement a city policy if the county and its courts

are cooperative partners. Partnerships between counties and cities on these initiatives are highly valuable.

### Can a city enact a right to counsel if it doesn’t control the courts?

The answer to this question will depend on state and municipal law. However, as a general matter, implementation of a right to counsel can often be accomplished even without modifications to the court or the eviction process.

### Where has Legal Support for Renters been enacted?

As of December 2021, such a policy has been enacted in 16 jurisdictions:

#### CITIES:

[New York City, NY](#) (2017)

[San Francisco, CA](#) (2018)

[Newark, NJ](#) (2018)

[Cleveland, OH](#) (2019)

[Philadelphia, PA](#) (2019)

[Boulder, CO](#) (2020)

[Baltimore, MD](#) (2020)

[Seattle, WA](#) (2021)

[Louisville, KY](#) (2021)

[Denver, CO](#) (2021)

[Toledo, OH](#) (2021)

[Minneapolis, MN](#) (2021)

[Kansas City, MO](#) (2021)

#### STATES:

[Washington](#) (2021)

[Maryland](#) (2021)

[Connecticut](#) (2021)

There are many jurisdictions currently pursuing a policy at this time. The National Coalition for a Civil Right to Counsel (NCCRC) maintains a [list of pending state legislation](#), and can be contacted to learn where city legislation is in development.