



Effectiveness of / need for right to counsel for eviction cases

Last modified 6/16/21

Nationwide status of right to counsel

As of May 2021, there is an enacted right to counsel at the city level in [New York City](#), [San Francisco](#), [Newark](#), [Cleveland](#), [Philadelphia](#), [Boulder](#), [Baltimore](#), [Seattle](#), [Louisville](#), and [Denver](#), and at the state level in [Washington State](#), [Maryland](#), and [Connecticut](#).

Additionally, legislation is still pending in [Delaware](#), [Massachusetts](#), and [New Jersey](#), and was introduced this year in [Indiana](#), [Minnesota](#), [Nebraska](#), [New York](#), and [South Carolina](#),

Results from enacted right to counsel programs

Of the jurisdictions to enact a right to counsel, three have been in place long enough to have collected data about the impact:

- [New York City](#), the city with the most evictions in the country, has seen 86% of tenants remaining in their homes while the eviction filing rate has dropped by 30% and default judgments have dropped by 34%. Moreover, New York City housing court judges have [testified](#) that the right to counsel has made their courts more efficient and just.
- [San Francisco](#), which enacted a right to counsel in 2018, saw a 10% filing rate drop in just one year, and two-thirds of all represented tenants are staying housed.
- [Cleveland](#), which enacted a right to counsel in 2019 and launched implementation in summer 2020, released a report on the first six months of the program that found 93% of those represented avoided eviction or involuntary move, 83% who were seeking additional time to move were able to get it, and 89% of those seeking to mitigate damages were able to do so.

Results from past studies

- A [Massachusetts pilot](#) examining tenants who received full representation to those who were given day-of legal assistance found that the full representation tenants stayed in their units twice as often, saved four times as much on rent, and paid nothing to their landlords on average, compared to over \$600 for the tenants with limited legal assistance.
- A [California study](#) found tenants with full representation stayed in their units three times as often as those receiving limited or no legal assistance, and none of the full representation tenants paid their landlords anything, compared to over 50% of tenants with limited assistance. When tenants did have to move, the fully represented tenants were given twice as long to do so.

- In [Hennepin County Minnesota](#), represented tenants were twice as likely to stay in their homes, received twice as long to move if necessary, and were four times less likely to use a homeless shelter than those without counsel. The rate of tenants who won or settled their cases was 96% for those with counsel but only 62% for those without counsel. Most dramatically, 78% of represented tenants left with a clean eviction record, compared to 6% of unrepresented tenants.
- A [Denver study](#) found that the small number of tenants able to secure counsel remained in their homes 70-100% of the time, compared to only 32% of unrepresented tenants.
- In D.C., pilots established by the Expanding Access to Justice Act found that tenants without counsel were twice as likely to be found in breach of lease, three times as likely to be subjected to writ of possession, and seven times more likely to wind up with consent judgment (which is significantly less favorable than a settlement agreement).
- In [Chicago](#), a data analysis revealed that tenants represented by legal aid attorneys avoided eviction 78% of the time, compared to only 38% for unrepresented tenants.
- [Stout](#), a financial analysis company that has produced extensive right to counsel reports in a number of cities, has consistently found that a right to counsel leads to more than 90% of tenants avoiding disruptive displacement. And Stout has also consistently found that a right to counsel saves millions more than it costs up front. For instance, in Philadelphia, they found that a \$3.5 million investment in right to counsel would yield \$45 million in savings.

Other justifications for right to counsel

It is impossible to overstate how critical the right to counsel is, both before and during COVID-19. Eviction cases implicate virtually every basic human need a family can have: safety, mental and physical health, child custody, employment, education, and so on. Yet the massive imbalance of power between landlords and tenants in the courtroom has led to the evictions process becoming a pro forma procedure devoid of due process that nearly always yields the same result regardless of the facts or law. In Baltimore, where only 1% of tenants had representation prior to the passage of a right to counsel, a [study](#) found that 80% of tenants had a potential defense to eviction but only 8% actually successfully did so without representation. And during COVID-19, peoples' lives are literally at risk when they lose their housing, because [studies](#) have shown evictions during the pandemic spread disease and cause death. Plus the COVID-19 protections put into place by the federal and state governments, such as moratoria and rent relief, only become fully effective with the provision of counsel. Many tenants without counsel will be unable to secure rental assistance, or will secure it only to have their landlords evict them anyway, or will not know that the eviction violates a moratorium. The right to counsel is what makes these other protections meaningful.

Additionally, due to decades of inequalities in our housing system, communities of color and [low-income women](#) feel the impacts of eviction the most — Black women in particular. [Black women](#) are more than twice as likely to have evictions filed against them as white people. Less than half of Black and Latinx families [own their homes](#) compared to 73 percent of white families. Black and Latinx tenants are also [twice as likely](#) as white tenants to report that they have little to no ability to make rent each month. Longstanding systemic income and wealth inequality also put communities of color and women at [higher risk of eviction](#).