

# Renters shouldn't have to go it alone.



## **SB 1: *Right to Representation for Low-Income Renters***

Primary Sponsor: Sen. Townsend  
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Introduced on January 19, 2023, SB 1 creates a right to representation for low-income renters in eviction actions. The disruptive displacement that comes with eviction proceedings has **well-documented and long-lasting negative effects on the lives of children and families**, including poorer physical and mental health, increased risk of homelessness and loss of employment, and poorer academic performance. It disproportionately impacts Black and Latinx families, and also creates **significant increased costs for state and local government** including funding for shelter, education, transportation for homeless youth, and foster care.

Currently, most Delaware renters must navigate the complex eviction process by themselves. In our state, **86% of landlords have representation in court eviction proceedings, but only 2% of renters do**. Providing representation would help low-income renters navigate the eviction process and possibly avoid homelessness, while creating significant cost savings to our state. Experts estimate that **every dollar invested in a right to representation program would save the state at least \$2.76**. This program benefits both renters and landlords by facilitating negotiations, reducing the need for formal court hearings, and helping more landlords receive the money they're owed from renters who have fallen behind.

### **What does the bill do?**

- Creates a right to representation for low-income renters facing eviction whose household income is lower than 200% of federal poverty guidelines.
- Requires landlords to provide notice of the right to representation at certain designated intervals of a tenancy and in eviction proceedings.
- Exempts small landlords who own three or fewer units and are not represented by a lawyer or agent.
- Creates an Eviction Diversion Program designed to help resolve payment or other issues after a landlord files for eviction, which will be run by the Justice of the Peace (“JP”) Court.
- Enables the Attorney General to contract with appropriate legal service organizations to provide representation in proceedings covered by the bill.
- Places coordination of the program with Delaware Volunteer Legal Services, which will manage the contracts.

### **What substantive changes have been made since the end of the last legislative session?**

- **Small landlords are now exempt from the program's requirements** if they own three or fewer units and are not using a lawyer or agent.



- **The JP Court will run the Eviction Diversion Program**, rather than the Attorney General's office.
- **Delaware Volunteer Legal Services will coordinate the program** rather than the Attorney General's office, as a cost-saving measure.
- **Military veterans and active-duty members** have been added to the list of groups given priority for representation if there is not sufficient funding for universal representation.

**Since the bill's original introduction, what changes have been made in response to feedback from stakeholders, such as landlord groups?**

1. **Exempting small landlords from the program's requirements** if they own three or fewer units and are not using a lawyer or agent.
2. **Eliminating the requirement to have a minimum amount of arrears to file for eviction.**
3. **Eliminating a renter's ability to stop eviction by paying back rent** (landlord can proceed with action after accepting full payment if landlord reserves rights).
  - Note: The Senate had changed this to any time before posting of notice on premises rather than after. A House amendment **eliminated it altogether**.
4. **Eliminating pre-filing eviction diversion** (similar to mediation) and changed it to **post-filing** eviction diversion.
  - Note: The Senate had reduced time for renters to engage in eviction diversion programs from 45 to 30 days. A House amendment **reduced it further to 15 days**.
5. **Eliminating language about the Court postponing hearings** if the renter is unrepresented.
6. Requiring renters owing rent to be referred to DE Housing Assistance Program and **requiring representation to include helping renters apply for rental assistance (funds go directly to landlords)**.
7. **Allowing renter representation by non-attorneys** under DE Supreme Court Rule 57.
8. **Eliminating the right to representation for appeals** deemed to lack merit.
9. **Eliminating the right to representation for reduction in housing subsidy.**
10. **Eliminating the need for landlords to participate in eviction diversion** programs when the renter has caused or threatened **substantial or irreparable harm to landlord's or other renter's person or property**.
11. **Extending deadline to start the eviction diversion program from 180 to 270 days** after the effective date.