

FAQ

What is the problem we are trying to solve?

Housing is among our most basic needs as human beings. Ultimately, our aim is to prevent displacement and to keep as many people housed as possible during the current housing crisis, which predated COVID and will only be exacerbated by the lifting of the eviction moratorium at the end of June.

In 2019, there were 9,249 evictions filed in Denver County Court. In 2020, there were still 3,912 evictions filed; 90% of those filings resulted in evictions *during the eviction moratorium*. In 2021, there have already been over 1,500 evictions filed to date. According to the Colorado Eviction Defense Project, one in four Coloradans is facing eviction right now.

The cascading long-term consequences of an eviction can include homelessness, financial dependence on others, physical health declines, mental health declines, inability to rent in one's own name, as well as children's health declines, learning loss for students, and an inability to maintain stable employment.

This ordinance would provide vulnerable tenants with proactive notification of and access to legal services and legal representation, which will make it more likely that more tenants will be able to stay housed, obtain immediate rental assistance, and the downstream costs of homelessness to residents, city agencies, and service providers will be greatly reduced.

What does a “right to counsel” mean in relation to eviction defense?

A “right to counsel” means that an income-eligible defendant would have guaranteed representation in an eviction case, similar to a Public Defender being provided to income-eligible defendants in criminal cases. During 2020, 95% of landlords were represented by counsel in evictions in Denver County Court, whereas only 1% of tenants were represented by counsel in these cases. A right to counsel for eviction defense corrects the current imbalance of power and knowledge in eviction cases. Additionally, this ordinance would require a landlord or property manager to provide a copy of a tenant rights brochure when a tenant signs a lease and at the time that a lawsuit is commenced by the owner or landlord against the tenant (currently, tenants are not notified of these resources until their first scheduled court hearing for an eviction proceeding).

What would this ordinance do?

The ordinance will:

- Codify eviction defense program into a **right** for tenants making 80% or below of the AMI
- Require a landlord or property manager to provide tenants with a copy of a tenant rights brochure when a tenant signs a lease AND at the time that an eviction lawsuit is commenced by the owner or landlord against the tenant
- Require the City to provide funds explicitly for legal assistance for qualifying persons no later than their first court date
- Require an annual report to assess impact and needs

What would this ordinance NOT do?

This ordinance does NOT:

- Create a new, permanent funding mechanism
- Create a *universal* right
- Create a new entity/division within the City Charter

Who would be managing this program?

The Department of Housing Stability (HOST) would oversee the procurement and selection process of designated entities to provide full legal representation to covered individuals in need of representation in covered proceedings.

Who would this ordinance support?

To be eligible for Eviction Legal Defense under this ordinance, a tenant must make [80% of the Area Median Income or less](#).

% AMI	HOUSEHOLD SIZE					
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30%	\$21,000	\$24,000	\$27,000	\$30,000	\$32,400	\$35,160
50%	\$35,000	\$40,000	\$45,000	\$50,000	\$54,000	\$58,000
60%	\$42,000	\$48,000	\$54,000	\$60,000	\$64,800	\$69,600
80%	\$54,950	\$62,800	\$70,650	\$78,500	\$84,800	\$91,100

In terms of the demographics of those who would be helped, we learned from the 2018 Eviction Defense Legal Fund pilot that:¹

- 40% of clients served were families with children under the age of 18

¹ Denver County Eviction Legal Defense Fund 2018 Report

- 35% of clients identified as people with disabilities
- 62% of clients identified as BIPOC

It's important to remember that [evictions are an issue of racial justice, and they impact families with children](#): Black and Latino individuals and families are significantly more likely to face eviction. Black female renters are filed against for evictions at double the rate of white renters. Families with children disproportionately receive eviction judgments, and Black women with children face the highest rate of eviction.

Would people of undocumented status be eligible for this?

Yes! There will NOT be restrictions based on a person's documented or undocumented status.

How much will it cost? How will it be funded?

Current estimates put the total initial annual investment at \$4 million. This includes Colorado Legal Services' current cost per case and the Office of Housing Stability's (HOST's) operational costs for program management staffing and outreach.

This ordinance would NOT create a new funding stream, but we are lucky in already having funding allocated in the city's budget for our Eviction Legal Defense program, we are simply making a successful program into a law/right and using the current dollars. In its first year, the Eviction Defense Right to Counsel ordinance would be funded through a combination of the city's current Eviction Assistance allocations and a \$2.7 million allocation from the American Rescue Plan Act (ARPA). For funding beyond FY2021, ARPA would fund \$4 million annually for FY2022-FY2024.

Here is a detailed breakdown of assumptions based on current program data and cost estimates:

- Colorado Legal Services current cost per case = \$880
- 5 Year Average Annual Eviction Filings = ~8,800
- Using a similar methodology to that used by Stout in its cost estimates for Philadelphia and Baltimore, we can assume that at least 80% of unrepresented tenants in housing courts fall at or below 80% AMI. If we recognize that not all tenants offered representation and/or legal advice will accept the offer and assume an acceptance rate of approximately 70% as exhibited in New York, we should aim for an annual case load of approximately 4,500.
 - Average of 8,800 annual eviction filings
 - ~90% unrepresented = 7,920
 - ~80% of tenants at or below 80% AMI = 6,336
 - ~70% apply for and accept legal representation = 4,435

- At the current cost per case of \$880 we can estimate an annual legal services cost of \$3.96 million for the provision of services to *approximately 4,500 households*.
- If we assume a reduction in the cost per case due to increased efficiency and higher staffing capacity, we expect the cost per case to fall more in line with estimates for Baltimore and Philadelphia at approximately \$800 - \$825. At these rates we estimate an annual legal services cost between \$3.6 million and \$3.713 million.
- Operational costs associated with management of the program by HOST are estimated below:
 - HOST FTE: \$120,000 salary + approx. \$36,000 in benefits = \$156,000
 - Marketing and outreach costs = \$30,000 to \$50,000 (these costs would likely be at the higher end of this range at implementation before slowly reducing as awareness of program increases)
 - Total: ~\$186,000

Total Initial Annual Investment: \$3,806,000 to 4,166,000 (approx. \$4mil/year)

2021 Funding: \$1.3 million current allocated in budget + \$2.7 million from CARES/ARPA

2022-2024 Funding: \$4 million requested from ARPA for each year

How much will it save?

In other cities that have instituted a Right To Counsel, for every \$1 allocated, the city has seen as much as \$3 to \$4 dollars in return in cost savings. When considering the savings or cost avoidance a city may realize due to the implementation of a right to counsel, costs for emergency shelters are the most obvious, and most easily quantifiable, source cited. However, there are numerous sources of savings in “downstream costs” that Denver would likely experience with the implementation of a robust RTC program, including but not limited to the following:

- Significantly lower emergency shelter and housing program costs due to eviction and displacement.
- Decreased education costs, juvenile justice costs and child welfare costs associated with children experiencing homelessness.
- Lowered cost of public benefits when jobs are lost due to eviction
- A reduction in additional law enforcement and incarceration costs
- A gradual reduction of the number of eviction cases filed resulting in improved use and efficiency of court resources.
- Increased economic activity because of increased retention of housing and employment

While many of these savings are not directly quantifiable, the *potential* for realized cost savings by the city is massive. A 2018 report by the Seattle Women’s Commission and the King County

Bar Association found that 37.5% of evicted tenants surveyed ($n = 1,473$) became completely unsheltered while 25% ended up living in a shelter. While we do not suggest that we should directly apply these rates to evicted tenants in Denver, if even 3-5% of evicted tenants in Denver were to become homeless, the investment proposed above would almost certainly be recouped by the city through avoided costs on homeless shelters and housing programs alone. If we consider Stout analyses for other cities that have implemented a right to counsel, and apply the most conservative estimates, **Denver could see a return of \$12 million or more annually on an approximately \$4 million annual investment.**

If the ordinance were to pass, would the City temporarily allocate general fund dollars in the budget to implement the program?

Currently, the Eviction Legal Defense Fund *already* receives \$1.3 million in funding in the City's 2021 budget. An additional investment of \$2.7 million would need to be made from the CARES Act/American Rescue Plan Act (ARPA) to implement this ordinance in 2021. However, given we are nearly halfway through the year and the eviction moratorium could be extended again, we can assume slightly reduced costs until it expires. The full estimated costs for 2022, 2023, and 2024 would come from ARPA funds and at minimum previous general fund allocations. Beyond that, we are exploring more permanent, long-term funding streams, and like many cities across the U.S., we are also looking to [federal grant opportunities](#) that are becoming available to support this type of legislation nationally.

During the September 2024 budget discussions, City Council and the Mayor's Office can make a determination regarding future funding and future needs for the program using real and comprehensive data from the previous three years. The data will be critical prior to determining a permanent revenue source, and this ordinance mandates the data tracking that will help us make good long-term decisions.

How would this change Denver's current Eviction Defense Legal Fund?

Currently, the Eviction Defense Legal Fund is a **program** that gives defendants in eviction cases passive access to legal services, which they are only notified of at their first court date, to which most eviction defendants don't even show up because they have already self-evicted before going to court.

This ordinance would create a ***civil right to counsel*** for defendants in eviction cases who meet income eligibility thresholds (80% Area Median Income, or AMI), guaranteeing representation similar to the way a Public Defender must be provided to income-eligible defendants in criminal cases.

How quickly could this be implemented to make an impact?

This bill would be effective upon passage.

How would the effectiveness of this ordinance change be evaluated?

Beginning July 1, 2022, and each year thereafter no later than July 1, the Executive Director of the Department of Housing Stability shall submit a report to the Mayor and City Council that will be used to assess the program and the provision of legal representation under the ordinance.

The annual report shall include information from the prior year regarding:

- Number of covered individuals served and number who refused services;
- Description of legal representation performed and cost per case;
- Median income levels of individuals served and individuals who refused service;
- Information that was voluntarily disclosed concerning demographics of applicants in the program.
- Case outcome data

If this passes, will it drag out the eviction process?

In other cities that have passed a Right To Counsel, better outcomes are achieved for both the landlord and tenant because the attorneys are able to negotiate between the parties. The right to counsel may, in fact, expedite the process, depending on the circumstances of the case. In Denver's pilot Eviction Legal Defense Fund program that started in 2018, 73% of tenants still had to move out, but they also entered into court stipulations that required the landlord to vacate the court judgment once the tenant moved (meaning that the tenant's record would not bear the permanent mark of an eviction, often an insurmountable barrier to housing stability).

Why do we need money to go to lawyers instead of going to rental assistance?

Rental assistance AND legal services are both essential tools in preventing displacement and potentially keeping people housed. Once the legal process of eviction has been initiated by a

landlord, tenants need resources, including legal representation, to navigate the legal process. Additionally, **rental assistance does not guarantee that a landlord will not *still* pursue an eviction.** Legal service providers have noted numerous cases where the tenant has paid off their debt, and the landlord still files for eviction. There is no law that requires the landlord to accept rental assistance. According to a report issued by Colorado Legal Services, “landlords filed many evictions due to only a few dollars of unpaid rent.”

Is this ordinance the same as the ballot initiative being brought forward by the group No Eviction Without Representation, currently gathering signatures to get a Right to Counsel ordinance on the November ballot?

No, the ballot initiative that is currently collecting signatures differs from this ordinance in two significant ways:

- (1) The ballot initiative would create a **universal right to counsel** for tenant defendants in eviction cases, and
- (2) The ballot initiative would **create a tax** that landlords pay into as a revenue stream to permanently fund the eviction legal defense program for all tenants, regardless of income.

Citizens at *any* point in time can initiate *any* ballot initiative through the signature gathering process and said initiatives can complement, contradict, or completely undo City Council-proposed or -passed ordinances. Additionally, any new tax must be voted on by the voters. This citizen-led ballot initiative must collect a certain amount of signatures to get on the ballot in November and must be supported by a majority of voters thereafter to go into effect.

Our proposal would only need 7 City Council member votes to pass, and unless vetoed by the Mayor, it would go into effect upon passage. While our proposal aims to meet the needs of our Denver renters, it is designed with the goal of passage, meaning it must meet the approval of 6 other individuals to pass quickly. While it does not comprehensively address the permanent revenue issue, we are confident that in the short-term, the revenue allocated will be sufficient. Any permanent revenue stream via a tax must go to the voters, but our proposal does not seek to make that proposition.

How many large corporate landlords are there vs. “mom and pop” landlords?

Because Denver does not currently have a residential rental registry, we don’t have hard data on the number of “mom and pop” versus corporate landlords there are in Denver. However, we

can infer these numbers by making a distinction between single-family, condo, and townhouse rentals versus apartment rentals in the city. According to the Denver Assessor's office, there are a total of 47,513 single-family, condo, and townhouse rentals (presumably owned by landlords who own 1-10 units) in Denver, whereas there are 145,582 apartment units in Denver (presumably owned by corporate landlords who own large quantities of rental units).

To break down apartment ownership even further, it's important to note that the Apartment Association of Metro Denver represents only 805 owners. Those 805 landlords own 104,178 of the total 145,582 apartment units in the metro area. That means that those 805 landlords own 20% of Denver's total rental units, and 72% of all Denver apartments. Those 805 landlords are 0.1% of Denver's population.

Is there an impact report for Denver's Eviction Defense Legal Fund pilot?

You can find reports on the current Eviction Legal Defense Fund here:

<https://denver.legistar.com/LegislationDetail.aspx?ID=3940507&GUID=4AFE1797-E97C-45BA-9DCA-B58A520C2A33&Options=ID%7CText%7C&Search=eviction>

In the 2018 pilot program run by Colorado Legal Services (CLS):

- 70% of clients still had to move out, but no judgment was entered upon move-out
- 28% of clients retained housing AND avoided a money judgment
- 2% judgment for possession entered

According to CLS, "these tenants entered into court stipulations that required the landlord to vacate the court judgment once the tenant moved. This is a vital outcome that enables these tenants to find another place to live, and prevents the 'black mark' of a judgment on their credit record."

How many people come back for second TRUA payments?

Who would be eligible for this program? Are you eligible if you have a savings account?

How do we balance small landlord needs vs renters?

Are there mechanisms to add access to an atty for a functional eviction in addition to formal eviction? (i.e. habitability or lockout)

How do we prevent bias or corruption of tenant defenders?

Is this ordinance redundant of the State legislation that passed in 2019?

Is there an impact report for the Denver pilot?

Reports on the current Eviction Legal Defense Fund:

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In the pilot program:

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“Through the representation of Colorado Legal Services attorneys, and with the assistance of Project paralegals, these tenants entered into court stipulations that required the landlord to vacate the court judgment once the tenant moved. This is a vital outcome that enables these tenants to find another place to live, and prevents the “black mark” of a judgment on their credit record.”

Would the Mayor be supportive?

At every level of government there are three branches: the Executive (Mayor), the Legislative (Council) and the Judicial (Courts). In evictions you have all three interfacing and impacting a tenant directly.

It is the Council's duty to make the laws that govern what the Courts implement and protect. It is the Court's duty to implement fairly and it is the Mayor's duty to administer programs or rights via our City departments and agencies. We have worked with all branches of government to craft this bill and we believe we have crafted an ordinance that reinforces work the Mayor has previously shown commitment toward and we have consulted deeply with several of his agencies and departments to make sure that his branch of government will be able to implement this ordinance as written.