

HB 379-FN - AS INTRODUCED

2023 SESSION

23-0290

04/10

HOUSE BILL **379-FN**

AN ACT requiring that attorneys be appointed to represent indigent tenants during residential eviction proceedings and making an appropriation therefor.

SPONSORS: Rep. Read, Rock. 10; Rep. Seibert, Hills. 21; Rep. Newell, Ches. 4; Rep. Staub, Hills. 25; Rep. Gallagher, Merr. 20; Rep. Veilleux, Hills. 34

COMMITTEE: Judiciary

ANALYSIS

This bill provides that an indigent tenant shall have the right to counsel at an eviction proceeding, establishes a fund for this purpose, and makes an appropriation therefor.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT requiring that attorneys be appointed to represent indigent tenants during residential eviction proceedings and making an appropriation therefor.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Actions Against Tenants; Eviction Notice and Right to Counsel for Indigent
2 Tenants. Amend RSA 540:3 by inserting after paragraph III the following new paragraph:

3 III-a.(a) The eviction notice shall clearly state that an indigent tenant may be provided with
4 court-appointed counsel for the eviction proceeding and include instructions on the process for
5 obtaining such counsel. If the tenant is able to demonstrate that he or she is indigent and requests
6 counsel, the court shall determine if the tenant is indigent and if so, shall appoint counsel for the
7 tenant. In no case shall a tenant whose annual gross household income is less than or equal to 200
8 percent of the federal poverty guidelines as updated annually in the Federal Register by the United
9 States Department of Health and Human Services under 42 U.S.C. section 9902(2) be deemed not
10 indigent.

11 (b) There is established a nonlapsing dedicated fund to be known as the counsel for
12 indigent tenants fund which shall be kept distinct and separate from all other funds. The judicial
13 council shall administer the fund and shall, to the extent of available federal, state, or private funds,
14 pay the cost of counsel and investigative experts, or other services and expenses necessary to provide
15 adequate representation for indigent tenants in eviction proceedings, from funds appropriated to the
16 fund established in this section.

17 2 New Section; Actions Against Tenants; Appointment of Counsel for Indigent
18 Tenants. Amend RSA 540 by inserting after section 12 the following new section:

19 540:12-a Appointment of Counsel for Indigent Tenants. Pursuant to the procedures and
20 limitations set forth in RSA 540:3, III-a, upon request, an indigent tenant shall have a right to
21 appointed counsel.

22 3 New Subparagraph: Application of Receipts; Counsel for Indigent Tenants
23 Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (387) the following new
24 subparagraph:

25 (388) Moneys deposited in the counsel for indigent tenants fund established in RSA
26 540:3, III-a.

27 4 Appropriation. The sum of \$1 for the fiscal year ending June 30, 2023 is hereby appropriated
28 to the judicial council which shall credited such amount to the counsel for indigent tenant fund
29 established in RSA 540:3-a, III(a) for the purposes set forth in that section. The governor is

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1 authorized to draw a warrant for said sum out of any money in the treasury not otherwise
2 appropriated.

3 5 Effective Date. This act shall take effect June 30, 2023.

**HB 379-FN- FISCAL NOTE
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AN ACT requiring that attorneys be appointed to represent indigent tenants during residential eviction proceedings and making an appropriation therefor.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$1	Indeterminable	Indeterminable	Indeterminable
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The bill would require the courts to appoint legal counsel upon the filing of an eviction notice for any tenant who requests counsel if the tenant can demonstrate that they are indigent. It also establishes a nonlapsing dedicated fund administered by the Judicial Council to pay the cost of counsel, investigative experts, or other services and expenses necessary to provide adequate representation for indigent tenants in eviction proceedings.

The Judicial Council assumes, based on current statistics, they would need an additional senior accounting technician (labor grade 14) to process payments for counsel in indigent tenant evictions and the payments for necessary services associated with those cases. The wage for labor grade 14, step 1 starts at \$33,404. The Judicial Council states they would also expend \$1.6 million annually for the additional cost of legal services, excluding services other than counsel. Although the amount of attorney time required for each eviction case is indeterminable the Council was able to make the following assumptions to calculate an impact.

- Indigent tenant lawyers would spend approximately 3.5 hours on a case and bill for one hour of paralegal time. under Supreme Court Rule 48, that lawyer would be compensated as follows:

Hours of legal work	Rule 48 hourly rate of \$90/hour	One hour of paralegal time	Total cost per case, not including travel time
3.5 hours	\$315.00	\$40.00	\$355.00

- Applying that estimated cost per case to the number of landlord/tenant filings in 2021 suggests the following fiscal impact of the proposed legislation:

Estimated cost per case assuming 3.5 hours of legal work, plus one hour of paralegal work, with no billable travel	Number of landlord/tenant cases filed in calendar year 2021	Estimated annual cost for legal services, excluding services other than counsel
\$355.00	4,499	\$1,597,145.00

The additional fiscal impact of services other than counsel necessary to indigent tenant eviction cases is indeterminable.

The Judicial Branch states although the cost of legal counsel would be funded by the Judicial Council, the Judicial Branch would see an increase in expenditures as they would need to develop forms, rules for landlord/tenant cases as well as additional court judicial staff resources to review financial information and appoint legal counsel. The Judicial Branch states because they do not know the amount of cases that would involve the appointment of legal counsel the fiscal impact would be an indeterminable increase in State and County expenditures starting in FY 2024 and forward.

This bill does not establish or provide an appropriation for new positions.

AGENCIES CONTACTED:

Judicial Council and Judicial Branch