

March 4, 2021

Housing Committee

Testimony from Yale Law School Housing Clinic

In Support of H.B. No. 6531 - An Act Concerning the Right to Counsel in Eviction Proceedings

To the Housing Committee Chairs Senator Lopes and Representative McGee, Vice Chairs Senator Anwar and Representative Smith, and distinguished members of the Housing Committee:

We write as members of the Yale Law School Housing Clinic to express our strong support for Connecticut H.B. No. 6531 - An Act Concerning the Right to Counsel in Eviction Proceedings. As housing clinic professionals, we recognize the fundamental importance of safe, affordable housing that meets people's needs and allows them and their communities to flourish. H.B. 6531 brings us closer to realizing this goal.

In our clinic, we work to defend New Haven metro area tenants against eviction, unfair rent increases, substandard housing conditions, and landlord retaliation. At the core of this work is a commitment to protecting every New Haven resident's right to safe, affordable, and secure housing. This is an important goal for many reasons, not least of which is that New Haven is among the top 100 evicting cities nationally.¹ Our work is also important in the current moment, as we grapple with the devastating impacts of the COVID-19 pandemic; once the eviction moratorium expires, more than 45,000 CT residents expect to face eviction, and most will not have access to a lawyer if the status quo persists.

The pandemic simply crystallizes what we already know about eviction: it disproportionately affects Black and Latinx families, who are twice as likely to have evictions filed against them as white families in CT.² Eviction destabilizes lives by leading to job loss and homelessness,³ undermining children's education,⁴ negatively impacting physical and mental health,⁵ and limiting housing choices in the future due to tenant

¹ Princeton University Eviction Lab, "Eviction Rankings," available at <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en>.

² Princeton University Eviction Lab, "Racial and Gender Disparities among Evicted Americans," available at <https://evictionlab.org/demographics-of-eviction/>.

³ Desmond and Gershenson, "Housing and Employment Insecurity among the Working Poor," *Social Problems*: 2016. Available at <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>.

⁴ Kathryn Howell, "Eviction and Educational Instability," available at <https://cura.vcu.edu/media/cura/pdfs/cura-documents/EvictionandEducationalInstabilityinRichmond.pdf>.

⁵ Desmond and Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces* 94(1): 2015. Available at <https://academic.oup.com/sf/article/94/1/295/1754025>.

blacklisting.⁶ The pandemic also brings to light the connections between eviction and public health: researchers from Yale and other universities find that states that have eased eviction moratoria over the course of the pandemic have experienced higher COVID-19 caseloads and greater mortality rates.⁷

Although legal representation is not a panacea for housing insecurity, it is an absolutely critical step in the process of realizing housing justice. In our state, over 80% of landlords have legal representation in evictions, while less than 7% of tenants do. This inequity means that tenants are systematically disadvantaged in housing court—in a process where losing a case may mean losing the roof over your head. Like most areas of the law, eviction law and procedure require special training and knowledge that most lay persons do not have, which is why the vast majority of landlords retain counsel. Guaranteeing a right to counsel for tenants is not controversial; it is simply about guaranteeing that all CT residents have equal access to justice.

Tenants' housing prospects look better with the assistance of legal counsel. We know this because several other governments have successfully implemented right to counsel programs and are already reaping the rewards. For instance, in New York City, which launched a Right to Counsel program in 2017, there has been an 11% decrease in executed evictions, and concomitant decreases in filings and warrants.⁸ In San Francisco, the second city to pass a right to counsel in June 2018 and which has guaranteed legal counsel to tenants no matter their income level, there has already been a 10% decrease in the filing rate; of the 2/3 of tenants receiving full-scope representation, the vast majority have been able to stay in their homes.⁹ Additional evaluations of other right to counsel initiatives demonstrate the clear impact of providing counsel for tenants.¹⁰

What's more, several cities have calculated that the right to counsel saves them money in the long run because this kind of initiative prevents homelessness and reduces emergency expenditures. Studies supporting this assertion have been documented across

⁶ Kristin Ginger, "Eviction Filings Hurt Tenants, Even if they Win," *Shelterforce* (July 2018). Available at <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.

⁷ Benfer et al., "Eviction, Health Inequity, and the Spread of COVID-19: Housing Policy as a Primary Pandemic Mitigation Strategy," *Journal of Urban Health* 98(1): 2021. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7790520/>.

⁸ Oksana Mironova, "NYC Right to Counsel: First year results and potential for expansion," Community Service Society (2019). Available at <https://www.cssny.org/news/entry/nyc-right-to-counsel>.

⁹ National Coalition for a Civil Right to Counsel, "All About the Right to Counsel for Tenants in San Francisco," August 2020. Available at http://civilrighttocounsel.org/major_developments/1179.

¹⁰ Heidi Schultheis and Caitlin Rooney, *A Right to Counsel is a Right to a Fighting Change*, Center for American Progress (2019). Available at <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/>.

jurisdictions. A comprehensive study conducted by the Massachusetts Bar Association found that “for every dollar spent on civil legal aid in eviction and foreclosure cases, the Commonwealth stands to save \$2.69 on the costs associated with the provision of other state services, such as emergency shelter, health care, foster care, and law enforcement.”¹¹ Similarly, a study commissioned by the Philadelphia Bar Association (and cited in a report prepared by the Connecticut Bar Association) found that a \$3.5 million investment in counsel for tenants would save the city over \$45 million.¹² The financial benefits are not just theorized—they have borne out in jurisdictions where a right to counsel for eviction proceedings have already been implemented. New York City’s right to counsel program has not only paid for itself, but city officials anticipate it could save “an additional \$320 million in city spending” on various social programs such as “homeless shelter[s], healthcare, and other costs.”¹³ The state of Maryland found that the housing assistance provided by state’s legal aid organization has “saved the state \$3.6 million in shelter costs by helping clients avoid homelessness.” In short, right to counsel is not only just, but cost-effective.

As members of the Yale Law School Housing Clinic, we know the tangible difference a right to counsel will make in the daily lives of Connecticut residents. In our state, tenants with lawyers are removed from their homes at less than half the rate of tenants without counsel. Over the past three years, the Evictions team in our clinic has represented over 70 clients in eviction and rent increase matters, many of whom may have lost their housing without legal assistance. In one recent case, a landlord attempted to evict a long-time resident from her affordable housing, during a pandemic no less, simply because she was the victim of an assault in her home. Unfortunately, had our client not had access to counsel, efforts to evict her would likely have been successful. This is a common trend we have seen—landlords inappropriately accusing tenants of “serious nuisance” as the basis for eviction proceedings in order to circumvent pandemic-related eviction moratoria. As law students, we have been able to help tenants navigate essential and rapidly-evolving

¹¹ Massachusetts Bar Association, “Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts,” available at: <https://bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>.

¹² Philadelphia Bar Association’s Civil Gideon and Access to Justice Task Force, “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants,” November 13, 2018, available at https://www.philadelphiabar.org/WebObjects/PBA_woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf.

¹³ Task Force to Improve Access to Legal Counsel in Civil Matters, “Report of the Task Force to Improve Access to Legal Counsel in Civil Matters - Appendix,” available at: https://www.cga.ct.gov/jud/tfs/20160729_Task%20Force%20to%20Improve%20Access%20to%20Legal%20Counsel%20in%20Civil%20Matters/Appendices.pdf.

eviction moratoria instituted at state and federal levels. Legal assistance organizations like our clinic are eager to protect the fundamental rights of CT residents, and with the right to counsel enshrined by H.B. 6531, we can continue to make this happen.

Connecticut can lead the way with this groundbreaking proposal as the first state in the nation to adopt a right to counsel in eviction proceedings. We believe the bill could be strengthened even further by centering the voices and needs of those most affected by mass evictions—tenants themselves. Based on feedback from cities that have implemented a right to counsel, we believe right to counsel program should be administered by a non-profit organization like the Connecticut Bar Foundation and overseen by an advisory committee that includes low-income tenants, community-based organizations engaged in tenant outreach, education, or organizing, and legal non-profit organizations serving tenants. We also believe that the right to representation should extend to tenants even prior to their being sued in summary process, as soon as they are served with a Notice to Quit, as this will help prevent unnecessary, frivolous, and/or costly evictions from being filed in the first place. Furthermore, the right to representation should extend to tenants in administrative proceedings to terminate a state or federal housing subsidy or a public housing tenancy.

In conclusion, we fervently support H.B. 6531 and urge you to favorably vote this bill out of the Housing Committee. Thank you to the Committee for the opportunity to testify on this pressing issue. If any members of the committee have questions regarding our testimony or would like us to provide additional information, please contact us at the emails listed below.

Sincerely,

The Yale Law School Housing Clinic*

Ann Sarnak, Yale College '17, Yale Law School '23
New Haven Resident
Ann.sarnak@ylsclinics.org

Adam Gerard, Yale College '17, Yale Law School '23
New Haven Resident
Adam.gerard@ylsclinics.org

Raymond Fang, Yale Law School '23
New Haven Resident
Raymond.fang@ylsclinics.org

Samarth Gupta, Yale Law School '23
New Haven Resident
Samarth.gupta@ylsclinics.org

Jacquelyn Oesterblad, Yale Law School '22
Hamden Resident
Jacqui.Oesterblad@ylsclinics.org

Dana Khabbaz, Yale Law School '21
New Haven Resident
Dana.khabbaz@ylsclinics.org

Susannah Howe, Yale Law School '23
New Haven Resident
Susannah.howe@ylsclinics.org

Sophie Clark, Yale Law School '23
Sophie.clark@ylsclinics.org

Hannah Abelow, Yale Law School '21
New Haven Resident
Hannah.abelow@ylsclinics.org

Zachary Krislov, Yale College '15.5, Yale Law School '23
New Haven Resident
Zachary.krislov@ylsclinics.org

Colin Burke, Yale College '18, Yale Law School '23
New Haven Resident
Colin.burke@ylsclinics.org

Evan Walker-Wells, Yale College '14, Yale School of Management '22, Yale Law School '22
New Haven Resident
Evan.walker-wells@ylsclinics.org

Nicole Cabanez, Yale Law School '22
New Haven Resident
Nicole.cabanez@ylsclinics.org

Areeb Siddiqui, Yale Law School '23
New Haven Resident
Areeb.siddiqui@ylsclinics.org

Gregory Briker, Yale Law School '24
New Haven Resident
gregory.briker@ylsclinics.org

*This testimony represents the views of members of the clinic listed above, and does not profess to represent the institutional views of Jerome N. Frank Legal Services Organization, Yale Law School, or Yale University.