

**TESTIMONY OF HOUSTON PUTNAM LOWRY  
IN OPPOSITION TO RHB: 6531 – AN ACT CONCERNING  
THE RIGHT TO COUNSEL IN EVICTION PROCEEDINGS**

This testimony is submitted in opposition to RHB-6531 - An Act Concerning The Right To Counsel In Eviction Proceedings. While I have served for a number of years as a member of the Citizens Advisory Council on Housing Matters (“CACHM”), my comments are made in my personal capacity.

First, I am not sure what the phrase “any judicial proceeding in a summary process action instituted pursuant to chapter 832” (lines 5-6) means. While I certainly know what a summary process action is, I am less clear what a “judicial proceeding” is. I have no idea what a “judicial proceeding in a summary process action” means. I suggest the definition should simply be “any summary process action instituted pursuant to chapter 832”. Could one have a summary process action without a judicial proceeding? Quite possible in the case of a default judgment.

Second, I assume the right to counsel would not apply to evictions when there a claim the occupant (not a tenant) has “no right or privilege.” This may cause landlords to bring cases under this provision more frequently.

Third, I am uncertain how a landlord will know if a tenant is indigent (outside of a subsidized housing situation). Therefore, a landlord will have to give notice every time a summary process action is brought.

Fourth, this bill requires the tenant to receive notice of their rights too frequently and at peculiar times. This will create an unnecessary administrative burden. According to the bill, “at the commencement of any covered proceeding, a covered individual shall have the right to legal representation and be so informed by the judge” (lines 35-37). A summary process proceeding is not like a criminal proceeding. A defendant is only likely to see the judge at the trial (which is at end of the proceeding). That isn’t helpful and will result in delay. Should the clerk’s office be mailing out copies of the brochure every time a defendant files a *pro se* appearance? I think that would be a difficult requirement to enforce and a unnecessary burden on the clerk’s office.

The bill provides “If a covered individual has not obtained legal representation by the covered individual's first scheduled appearance” a brochure must be provided (lines 44-45). Most cases are disposed without a physical appearance by default. At best, the first scheduled appearance is the trial, which will likely result in a delayed trial.

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A tenant must get a copy of the brochure (which does not exist yet) when the summary process action starts (lines 62-64). Presumably, this is when the writ of summons and complaint are served (usually, but not exclusively, by a Connecticut Marshal). This requirement makes the most sense. The brochure can be served with the complaint, which is when the tenant is most likely to need counsel.

A brochure must be served when a housing authority sends a notice of termination of a lease (lines 64-65). Presumably, this means when a housing authority serves a notice to quit. Then the housing authority must serve a second copy when it serves the writ of summons and complaint. I do not understand why the tenant needs to get two copies within a fairly short period of time.

A brochure must also be served when a “state marshal serves notice of a petition, summons or complaint in a summary process action” (lines 65-67). This seems to be duplicative with the requirement a copy of the brochure be served when the summary process action starts, and it isn’t necessary. I have never seen a petition start a summary process matter.

This bill should make it clear the failure to serve a brochure is not a jurisdictional defect. It can be cured by providing the brochure (service by marshal seems excessive) or by giving notice.

Frankly, I do not believe this bill is necessary. The housing court clerks can, by statute, (and do) give advice to parties frequently (contrary to other court clerks). The Housing Specialists help both parties with procedure. The Judicial Department provides excellent resources to both parties by providing forms and guides.

I request the Housing Committee **NOT** report this bill to the General Assembly.