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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Galonski and Hicks-Hudson

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SUMMARY

- Provides legal counsel in eviction proceedings for certain low-income tenants.
- Requires the Ohio Access to Justice Foundation ("Foundation") to contract with legal aid societies or similar nonprofit organizations to provide that counsel, but only if appropriated funds are available.
- Requires notice to be provided to low-income tenants facing eviction informing them that they may qualify for free legal representation.
- Expands an existing report submitted by the Foundation to the General Assembly and other state officials to include information related to eviction defense.
- Appropriates \$750,000 each fiscal year for the FY 2022-FY 2023 biennium to fund eviction defense.

DETAILED ANALYSIS

Eviction defense for low-income tenants

The bill provides legal counsel for certain low-income tenants who are facing eviction. To accomplish this, the bill generally requires the Ohio Access to Justice Foundation ("Foundation") to contract with and provide funding to legal aid societies or similar nonprofit organizations for the provision of eviction defense. The Foundation is an existing, statutorily created nonprofit organization that supports the delivery of civil legal services to indigent clients, primarily through providing financial assistance to legal aid societies that apply to the Foundation for funding.

Eligibility

To qualify, the low-income tenant (1) must be an individual who legally occupies a dwelling with at least one child, (2) must not be the dwelling's owner, and (3) must have an annual gross income of not more than 250% of the federal poverty line for the size of the

individual's family. The bill refers to such a qualifying low-income tenant as a "covered individual." The income threshold to qualify as a covered individual is double that required to qualify as an indigent person for civil legal services from a legal aid society under continuing law (i.e., income not exceeding 125% of the federal poverty line).¹ The Department of Health and Human Services Poverty Guidelines for 2022 set the poverty guideline at \$18,310 for a household of two, increasing \$4,720 for each additional person in the household.² For a household of two, 250% of the federal poverty guidelines would be \$45,775 in 2022.

The bill applies to three types of proceedings: (1) residential evictions governed by Ohio's Eviction Law, (2) informal hearings required under federal law to terminate financial assistance from a metropolitan housing authority, and (3) and any appeals from either of those proceedings.³

Metropolitan housing authorities are established under state law in areas where there is substandard housing or a shortage of affordable housing, as determined by the Director of Development. Metropolitan housing authorities may acquire real property for the purpose of renting residential dwellings to low-income individuals, and may participate in programs administered by the U.S. Department of Housing and Urban Development, including the Housing Choice Voucher Program. Under that program, metropolitan housing authorities in Ohio receive and disburse federal funds to low-income individuals to attain decent, safe, and affordable housing. As a condition of receiving that federal funding, metropolitan housing authorities must abide by federal regulations, which generally require hearings for the termination of financial assistance to low-income individuals.⁴

Agreement with designated organizations

The Foundation is required to enter into agreements with legal aid societies or similar nonprofit organizations for the provision of eviction defense, but only if the General Assembly appropriates funds to the Foundation to pay for those services. The bill refers to such legal aid societies and nonprofit organizations as "designated organizations." When required, the Foundation must enter into a sufficient number of agreements with designated organizations to ensure the availability of eviction defense in all areas of the state. The Foundation must first attempt to enter into such agreements with legal aid societies that already receive funding from the Foundation. If it cannot, the Foundation may enter into agreements with other nonprofit organizations.⁵

Each contract required under the bill must include all of the following:

¹ R.C. 120.532(A)(2) and (5); R.C. 120.51(B), not in the bill.

² [HHS Poverty Guidelines for 2022](https://www.hhs.gov/ashpe/poverty-guidelines-for-2022), which is available at the Office of the Assistance Secretary for Planning and Evaluation's website: aspe.hhs.gov.

³ R.C. 120.532(A)(3).

⁴ R.C. Chapter 3735; 24 Code of Federal Regulations (C.F.R.) 982.555.

⁵ R.C. 120.532(A)(4), (C)(1) and (2), and (D).

- That funds must be used for eviction defense for covered individuals or to educate tenants of their rights and available resources;
- That full-service legal representation (i.e., ongoing representation to a covered individual and all legal advice, advocacy, and assistance associated with that representation) must be provided as long as funds are available and must commence as soon as possible after eviction proceedings are initiated and the covered individual contacts the organization;
- That if full-service legal representation is infeasible, the designated organization must attempt to provide brief legal assistance (i.e., a single consultation for a covered individual related to an eviction proceeding);
- That the designated organization must work with the Foundation and community partners to engage and educate tenants on their rights and available resources;
- That the designated organization must satisfy performance metrics, report those metrics to the Foundation on a quarterly basis, and adhere to quality standards set in the contract to ensure continued funding eligibility;
- That any information reported under the contract must not include any personally identifiable or confidential information;
- That services provided under the contract do not replace or satisfy responsibilities under any other agreement;
- Any other terms the Foundation considers necessary for the provision of eviction defense services.⁶

Notice to covered individuals

The bill requires notice to be provided to covered individuals subject to eviction proceedings informing them that they may qualify for free legal representation.

Under current law, similar notice is already required to be provided in residential evictions pursuant to Ohio's Eviction Law. Such notice simply recommends that the tenant reach out to a local legal aid society or bar association if the tenant cannot afford a lawyer. Instead, the bill requires that the notice state that the tenant may qualify for free legal representation based on income and to recommend the tenant to contact Ohio Legal Help – a nonprofit organization that connects persons to government programs, legal aid societies, and other providers of legal services based on the person's legal issue. The bill also requires the same notice to be provided by landlords.⁷

⁶ R.C. 120.532(A)(1), (6), (7), and (B).

⁷ R.C. 1923.06(B) and 5321.17(C).

For the notice required for an informal hearing to terminate financial assistance from a metropolitan housing authority, every notice that must already be provided pursuant to federal law must include a statement that the tenant may qualify for legal representation under the bill.⁸

Appropriation

Money appropriated by the General Assembly, plus any gifts or donations made specifically for eviction defense, must be credited to the newly created Eviction Defense Fund. The bill appropriates \$750,000 each fiscal year for the FY 2022-FY 2023 biennium from the GRF for the provision of eviction defense services for covered individuals. Unlike current legal aid funding, which may be used for any civil legal service for indigent persons, funds in the Eviction Defense Fund must be used only for eviction defense for covered individuals. Such funds must be distributed to designated organizations by the State Public Defender through the Foundation in the same manner as funds distributed under continuing law, described below. The State Treasurer is authorized to invest the funds, as long as it does not interfere with the use of those funds by the Foundation.⁹

Under continuing law, the Foundation receives much of its funding from local court fees and the Interest on Lawyers Trust Accounts (IOLTA) and Interest on Trust Accounts (IOTA) programs, plus any gifts and donations. The majority of funding is apportioned to each county based on the ratio of the number of indigents who reside in the county that are served by legal aid societies applying for financial assistance to the total number of indigents who reside in all counties served by such eligible legal aid societies. If there is more than one eligible legal aid society in the county, each legal aid society will receive a proportional amount based on its total budget expended for the previous year.¹⁰

Required reporting

Under continuing law, the Foundation is required to submit an annual report to the Governor, the General Assembly, and the Ohio Supreme Court detailing information about distribution of funds to and use by legal aid societies for civil legal services, as well as audited financial statements detailing all gifts, donations, and other funds received by the Foundation. The report is based, in part, on information legal aid societies receiving funding are required to report to the Foundation, including the number and types of cases handled and the amount and types of legal training, legal technical assistance, and other services provided.

The bill expands that report to also include information regarding eviction defense. Specifically, the report must include all the same information described above related to eviction defense, as well as the following:

⁸ R.C. 3735.41(D).

⁹ R.C. 120.521(A), 120.531, and 120.532(C)(3); Sections 3, 4, and 5.

¹⁰ R.C. 120.53(D)(2) and (E); R.C. 120.52, not in the bill.

- The number of covered individuals served for the period of the report;
- The extent of legal services performed;
- The outcomes of those services;
- Projected budgeting needs for full-service legal representation for all covered individuals;
- A summary of the engagement and education of tenants.

As is the case with the existing reporting requirements, the additional content required to be reported must not contain any information that can be used to identify any covered individual or that would breach confidentiality.¹¹

Stay of eviction proceedings

Under current law, a court may not grant a continuance in an eviction action for longer than eight days, unless either (1) the plaintiff applies for a continuance and the defendant consents to it, or (2) the defendant applies and gives a court-approved bond to the plaintiff.

The bill adds a third circumstance. A continuance may be granted if the defendant is entitled to legal representation under the bill, but has not yet entered into an attorney-client relationship for such eviction defense services. Unlike the first two circumstances, both of which do not have a specified continuance period, a stay entered under the third circumstance must be for exactly 14 days.¹²

No private cause of action

The bill expressly disclaims the creation of any private cause of action against the state or any state agency, official, or employee by providing state-funded eviction defense.¹³

HISTORY

Action	Date
Introduced	04-12-22

ANHB0622IN-134/ar

¹¹ R.C. 120.521(A), 120.53(G), and 120.532(E).

¹² R.C. 1923.08.

¹³ R.C. 120.532(F).