

Washington State's Appointed Counsel Program: Baseline Report

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Introduction

Washington State’s Appointed Counsel Program launched in 2021. The program provides funding for attorneys to be available for anyone facing an “unlawful detainer” case. This program is a significant intervention in the routine processes of eviction. Rather than forgoing a lawyer for reasons such as cost, lack of information, or unavailability of attorneys, people across the state received notice that an attorney was available to them – free of charge – at the beginning of the legal proceedings that could lead to an eviction. An intervention of this nature has the potential for considerable impact. This report therefore provides an initial assessment of the program’s first two years, examining patterns across the 8,100 cases served by the appointed counsel program between April 2021 and March 2023.

The appointed counsel program was created by the passage of Washington Senate Bill 5160 in 2021. SB 5160 authorized the nation’s first statewide program to provide legal representation for tenants facing eviction. Many households in Washington State lack access to secure, affordable housing and renters face an especially high risk of housing insecurity. Eviction has been identified as a cause of poverty, homelessness,¹ and other harmful consequences.² Nearly 20,000 Washington renter households faced eviction in a typical year prior to the COVID-19 pandemic.³

Importantly, the appointed counsel program also helps address a common issue that can stymie accuracy in the complex domain of housing policy: lack of data. The independence of the 37 judicial districts in Washington creates a dearth of unified data across the state. This program helps ameliorate the situation by establishing a process and infrastructure for collecting key data about unlawful detainer cases, the people involved, and the outcomes they face.

To provide an overview of Washington’s appointed counsel program thus far, this report examines data from three sources: administrative data, interviews with program participants, and reports from legal aid providers. Using both quantitative and qualitative analyses, this report examines the provision of legal representation and the experience of tenants in the process. The goal is to establish a base of evidence about the appointed counsel program in its first two years. Such evidence will allow for comparisons over time in Washington as well as with jurisdictions in other states. The report explores the following questions:

1. Who has been served by the appointed counsel program?
2. What are the most frequent outcomes in appointed counsel cases, and to what extent do they vary or intersect?
3. How have tenants perceived the effectiveness of the program?
4. What processes or aspects of the program have been most beneficial and most challenging?

¹ Collinson, R., Humphries, J. E., Mader, N. S., Reed, D. K., Tannenbaum, D. I., & Van Dijk, W. (2022). Eviction and Poverty in American Cities (No. w30382). National Bureau of Economic Research.

² Semenza, D. C., Stansfield, R., Grosholz, J. M., & Link, N. W. (2022). Eviction and Crime: A Neighborhood Analysis in Philadelphia. *Crime & Delinquency*, 68(4), 707-732.

Hoke, M. K., & Boen, C. E. (2021). The health impacts of eviction: Evidence from the national longitudinal study of adolescent to adult health. *Social Science & Medicine*, 273, 113742.

³ Thomas, T. A., Toomet, O., Kennedy, I., & Ramiller, A. (2019). The state of evictions: Results from the University of Washington evictions project. <https://evictionresearch.net/washington/results.html#eviction-counts>

Key findings

Key findings of the report include the following:

1. More than 8,100 unlawful detainer cases were served by WA's appointed counsel program in its first two years.
2. Non-payment of rent was the most common basis for the unlawful detainer – as opposed to non-compliance with lease terms or safety/nuisance concerns.
3. The racial composition of the clients served was: 54.8% White, 10.4% Black, 6.0% Native American, and 4.1% Latino.⁴
4. Approximately 64.1% of cases entailed full representation from appointed counsel.
5. Among all case outcomes: 26.3% of cases were dismissed, 27.3% ended with a negotiated agreement for the tenant to move, and 15.2% ended with a negotiated agreement for the client to stay.
6. Approximately one-fifth of clients received rental assistance and one-fifth received extra days to move.
7. Of the 398 cases with recorded savings amounts, clients saved an average of \$9,500.
8. Only 15% of cases ended with a writ of restitution, which is an eviction judgment against the tenant requiring the tenant to leave a residence.
9. Based on interviews with clients, a majority had positive interactions with attorneys. Attorneys gave their clients a sense of security and stability, of being protected, and of empowerment.
10. Legal representation mitigated some of the most harmful impacts of receiving an unlawful detainer notice. Many interview participants stated that they avoided homelessness because they were able to access legal representation.

From legislation to implementation

On April 22, 2021, Governor Jay Inslee signed 2nd Engrossed Substitute Senate Bill 5160 (SB 5160) establishing Washington State's appointed counsel program for indigent tenants in unlawful detainer cases.⁵ SB 5160 directed the Office of Civil Legal Aid (OCLA) to establish a program and provided funding to contract with civil legal aid providers in every judicial district of the state.

With the passage of SB 5160, Washington became the first state in the country to provide court-appointed counsel to tenants facing eviction. Since 2017, similar programs have been authorized in three states, one county, and 22 cities nationwide.⁶ Past research has shown that legal representation results in lower monetary judgments against tenants and a reduced likelihood of eviction.⁷ The results from several of these new programs are summarized in Appendix A. While similar programs are referred to as “right-to-counsel” programs, we refer to the program created by SB 5160 as an “appointed counsel” program, because of the legislation's unique requirement that courts proactively ensure legal representation for tenants.

⁴ The racial composition of the state overall is: 76.8% White, 4.6% Black, 2.0% American Indian, 14% Hispanic or Latino

⁵ Unlawful detainer is a legal term that refers to the legal basis for eviction from residential housing. RCW 59.12.030 defines a tenant as liable for unlawful detainer if they maintain possession of real property after the end of a lease period or when they are in violation of other legal requirements of the lease or the law.

⁶ National Coalition for a Civil Right to Counsel (NCCRC). (2023). All information accessed via: <http://civilrighttocounsel.org/>

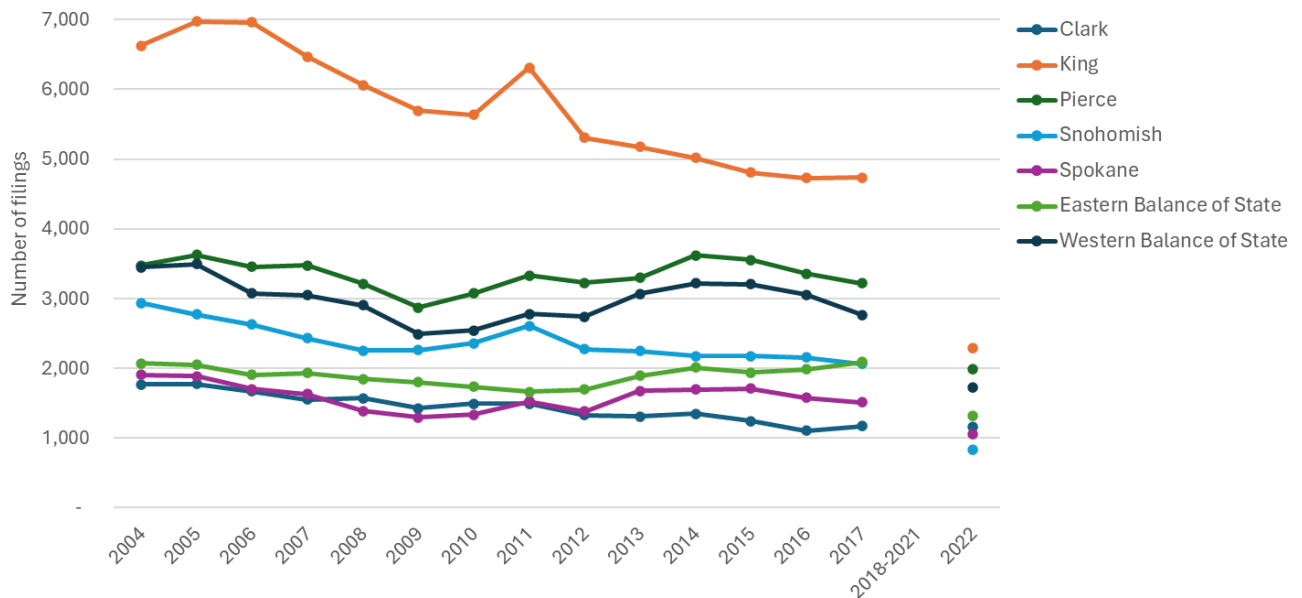
⁷ Ellen, I. G., O'Regan, K., House, S., & Brenner, R. (2021). Do lawyers matter? Early evidence on eviction patterns after the rollout of universal access to counsel in New York City. *Housing policy debate*, 31(3-5), 540-561.

Cassidy, M., & Currie, J. (2023). The effects of legal representation on tenant outcomes in housing court: evidence from New York City's Universal access program. *Journal of Public Economics*, 222, 104844.

On July 15, 2021, OCLA published the initial appointed counsel program implementation plan.⁸ The statewide Eviction Defense Screening Line began screening tenants for the appointed counsel program in September 2021. By January 18, 2022, OCLA had certified that attorneys were available for court appointment in all 37 judicial districts of the state. SB 5160 directed OCLA to finish this comprehensive certification within one year of the program’s authorization. OCLA completed it three months ahead of schedule.⁹ See Appendix B for a detailed timeline of key milestones and achievements.

Washington State’s current eviction filings are at historically low levels when compared to the past two decades. Figure 1 illustrates trends in annual eviction filings using data from the Washington State Administrative Office of the Courts. Across the state, eviction filings in 2022 totaled 10,348, which is less than 60% of the 2017 total of 17,551 filings. From 2010-2017, the state averaged 18,460 filings per year.

Figure 1. Annual eviction filings in Washington State, 2004-2022¹⁰



Data Sources and Analysis

This report draws on three sources of data: administrative case records, bi-annual narrative reports from civil legal aid providers, and in-depth interviews with tenants who received legal aid from a court-appointed attorney. The research team worked closely with OCLA staff and legal aid

⁸ Washington State Office of Civil Legal Aid (OCLA). (2021). “Right to Counsel for Indigent Tenants: Implementation Plan.” <https://ocla.wa.gov/wp-content/uploads/2021/10/Implementation-Plan-Right-to-Counsel-for-Indigent-Tenants-Rev-10-8-21-Final.pdf>

⁹ Washington State Office of Civil Legal Aid (OCLA). 2022. “Report to the Legislature on Implementation of the Appointed Counsel Program for Indigent Tenants in Unlawful Detainer Cases (RCW 59.18.640; 2.53.050; sec. 116(7), ch. 297, laws of 2022)” <https://ocla.wa.gov/wp-content/uploads/2022/07/OCLA-Report-to-the-Legislature-Implementation-of-Indigent-Tenant-Right-to-Counsel-FINAL-7-28-22-.pdf>

¹⁰ Filings from 2018-2021 are excluded because of data availability and reliability challenges.

providers to inform the design of the administrative data collection system, understand program details, and recruit study participants.

Administrative data

Our quantitative analysis relies on data that legal aid providers reported to OCLA about case details and outcomes, as well as the demographic characteristics of tenants. We analyzed appointed counsel cases that were opened between April 1, 2021 and March 31, 2023¹¹, which includes those cases resulting from early authorization (beginning April 2021) for the program in Clark, King, Pierce, Snohomish, and Spokane counties. Table 1 lists the number of appointed counsel cases in our dataset for every Washington county. For some components of the analysis, results are presented for each of the five most populous counties in Washington State (King, Pierce, Snohomish, Spokane, and Clark) plus two groupings of the remaining counties constituting an “Eastern Balance of State” group and a “Western Balance of State” group. Table 1 also indicates which counties are in each group.

Table 1: Number of appointed counsel cases by county

County	Number of Cases	County	Number of Cases	County	Number of Cases
Adams*	10	Grays Harbor ⁺	111	Pierce	1,572
Asotin*	41	Island ⁺	30	San Juan ⁺	5
Benton*	177	Jefferson ⁺	14	Skagit ⁺	116
Chelan*	69	King	2,059	Skamania ⁺	2
Clallam ⁺	57	Kitsap ⁺	240	Snohomish	634
Clark	946	Kittitas*	18	Spokane	756
Columbia*	7	Klickitat*	12	Stevens*	24
Cowlitz ⁺	118	Lewis ⁺	82	Thurston ⁺	341
Douglas*	19	Lincoln*	3	Wahkiakum ⁺	0
Ferry*	2	Mason ⁺	74	Walla Walla*	36
Franklin*	38	Okanogan*	18	Whatcom ⁺	125
Garfield*	1	Pacific ⁺	56	Whitman*	21
Grant*	46	Pend Oreille*	5	Yakima*	231
				TOTAL	8,116

*Included in Eastern Balance of State
⁺Included in Western Balance of State

¹¹ There are an additional 18 cases with stated open dates outside this time frame which are included in the dataset.

Interviews

Interviews provide the opportunity to hear directly from clients about their perceptions of and experiences with the appointed counsel program. In consultation with legal aid providers, the research team initially planned to conduct focus groups in four counties. In response to difficulties with participant recruitment, we solicited contact information for former appointed counsel clients with closed cases from all counties¹². Legal aid providers then reached out to potential interview participants to seek their permission to share their contact information with the research team. The research team ultimately received contact information for 59 tenants from six legal aid providers in 12 counties.

We contacted each potential interviewee at least twice, using each available contact method (e.g., phone number, email address). Interviews began by confirming the screening criteria and additionally ensuring that participants did not have ongoing unlawful detainer cases or housing-related conflicts. Three of the potential interviewees we reached were no longer eligible because of ongoing housing conflicts that occurred after the perceived case closure. We conducted in-depth interviews with 22 tenants in nine counties between November 15, 2022 and May 2, 2023. Table 2 and Table 3 present the county and demographics, respectively, of the interview participants. Twenty-one interviews were conducted over the phone, and one interview was conducted in person. Interview length ranged from 24 to 52 minutes with an average length of 30.5 minutes. All interviews were recorded and transcribed. Each interview participant received an electronic gift card valued at \$30 as an incentive for participation.¹³

Table 2: Number of interview participants by county

County	Participants	County	Participants
Benton	1	Skagit	2
Clark	5	Spokane	1
King	1	Thurston	5
Okanogan	2	Yakima	2
Pierce	3		
TOTAL			22

Table 3: Interview participant demographics

Gender		Race		Household includes children	
Female	14	Asian	1	Yes	12
Male	7	Black	5	No	10
Nonbinary	1	Latino	5		
		Native Am.	4		
		White	11		
TOTAL	22				

Note: Race numbers exceed the total number because several interviewees identified with more than one racial category.

¹² We limited participation to those without open cases or ongoing housing conflicts in order to avoid any perception of a connection between the research and service provision.

¹³ An exception was made for the first interview participant, who was interviewed in person and received a \$50 physical gift card.

Narrative reports

Legal aid providers submit narrative reports to OCLA twice per year. These reports consist of responses to a set of questions about the implementation of the appointed counsel program. The reports detail court practices, organizational partnerships, tenant education and outreach, as well as revealing issues and practices that vary by jurisdiction or by provider. Legal aid providers also included short descriptions of notable cases overseen by their attorneys. The research team reviewed narrative reports covering the period from October 2021 to December 2022 to examine the rollout and implementation of the appointed counsel program during this period of time.

Qualitative analysis

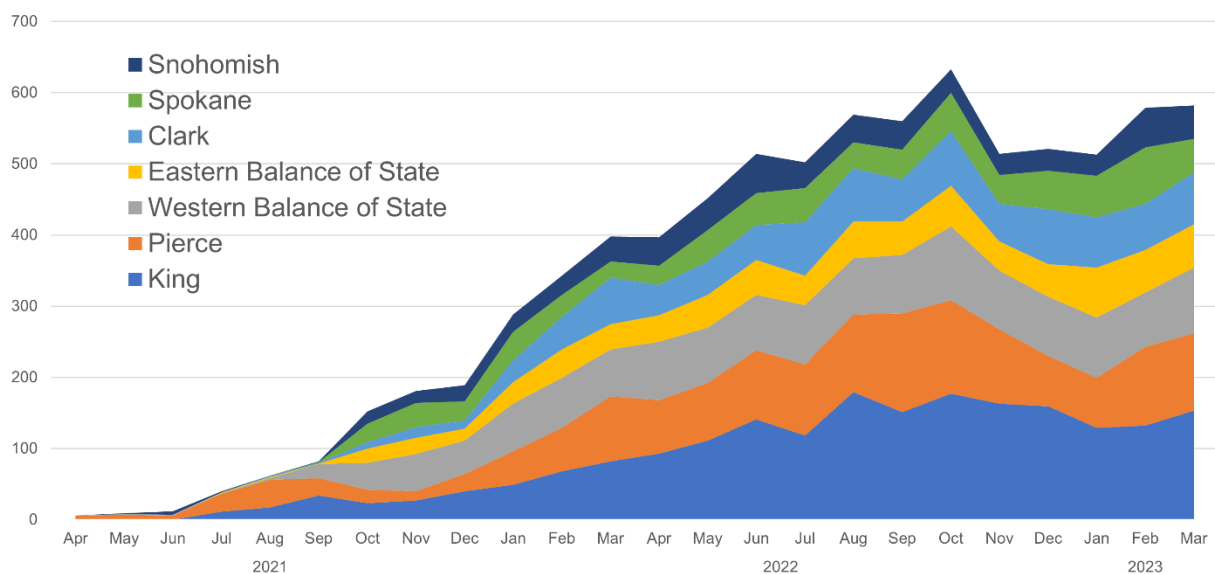
The text from the interview transcripts and narrative reports were coded jointly through an iterative and collaborative process using Atlas.ti software. Coding iterated between individual coding, discussion of emergent themes and points of misalignment, code revisions, and final analysis and written summaries of key themes.

Findings: Administrative Data

Case trends

Figure 2 examines the caseload of appointed counsel cases with open dates from September 2021 through March 2023. Case increases reflect both the increased capacity of legal aid providers and increased trends in unlawful detainer filings during this time period.

Figure 2: Appointed counsel cases by county / region



Program usage

Table 4 displays the case counts and select demographics for the clients in appointed counsel cases. Given privacy concerns, the dataset does not link cases with the same client, although providers have indicated that some clients do return. Thus, Table 4 (and subsequent analysis) draws information about client demographics as recorded in each individual case.

Table 4. Case counts and client demographics

County/Region	Case count	Cases per capita	% female clients	Racial composition of clients	
Clark	946	.0018	58.0%	13.6% Black 10.4% Latino	10.0% Native Am. 59.2% White
King	2,059	.0009	50.4%	28.6% Black 10.5% Latino	6.0% Native Am. 36.6% White
Pierce	1,572	.0017	62.1%	26.4% Black 10.3% Latino	5.4% Native Am. 44.7% White
Snohomish	634	.0008	55.0%	9.0% Black 10.3% Latino	4.7% Native Am. 64.8% White
Spokane	756	.0013	55.7%	7.5% Black 5.3% Latino	6.4% Native Am. 71.3% White
Eastern Balance of State	778	.0007	59.3%	3.5% Black 23.5% Latino	5.0% Native Am. 59.1% White
Western Balance of State	1,371	.0009	59.9%	5.5% Black 5.5% Latino	4.6% Native Am. 74.6% White
TOTAL	8,116	.0010	56.9%	10.4% Black 4.1% Latino	6.0% Native Am. 54.8% White

Notes: There are 55 known cases likely represented twice within the data because of case transfers across providers, leading to two case numbers for a single case. Case anonymity prevents de-duplication, but omitting known transferred cases does not yield substantive changes. Cases per capita calculated based on U.S. Census Bureau population estimates for each county (July 1, 2022). Racial groups are mutually exclusive. Omitted racial groups are multi-racial/other non-White, other Indigenous (including Native Hawaiian), and unknown.

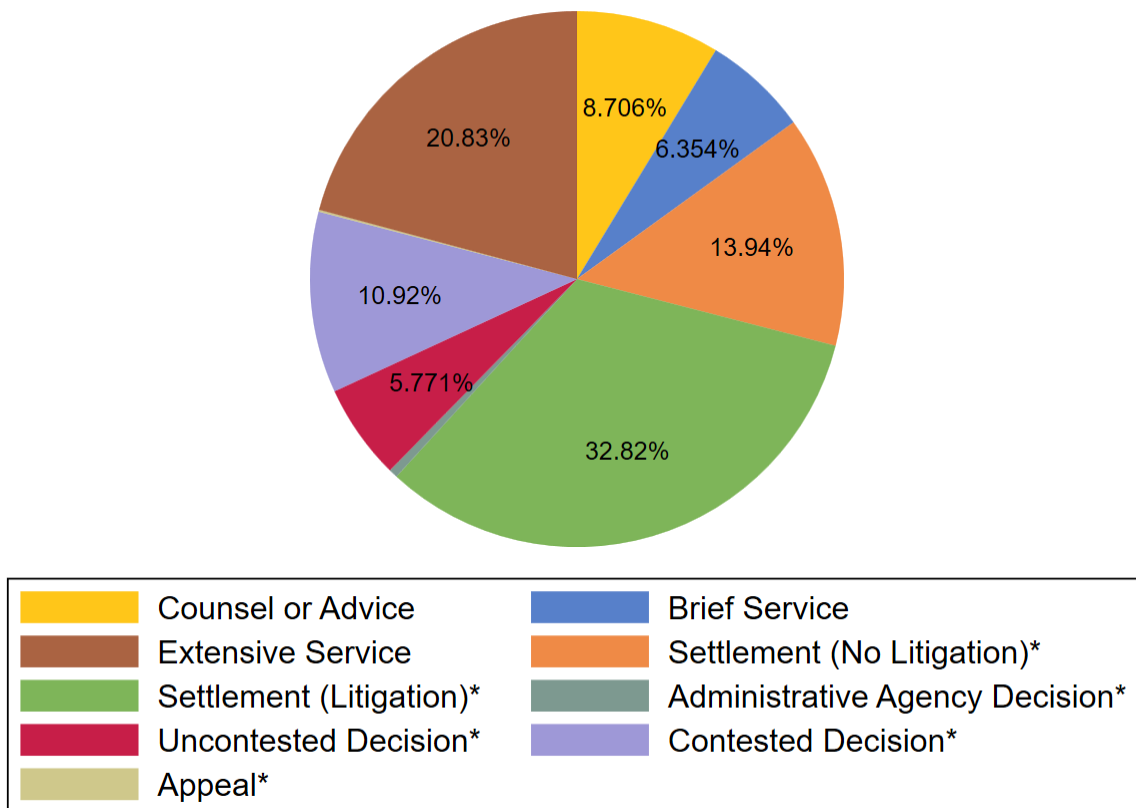
Levels of service and case types

Upon closing a case, legal aid providers identify the level of service and/or case type that best characterizes their involvement with the case. Figure 3 illustrates the distribution of the 5,995 cases in the dataset with known close reasons. An additional 42 known closed cases were omitted because of unknown characterization of the case type.

“Counsel or Advice” cases refer to instances in which attorneys provided advice or recommendations to a tenant facing eviction, but without providing full legal representation in court or in a mediation. “Brief Service” refers to instances in which attorneys wrote letters on behalf of tenants, but without (or prior to) the formal appointment of an attorney in an unlawful detainer

proceeding. “Negotiated Settlement without Litigation” refers to a settlement that was negotiated between a tenant and their landlord prior to an unlawful detainer case being filed. “Negotiated Settlement with Litigation” refers to a settlement that was agreed upon in court with a court-appointed attorney formally representing a tenant. “Administrative Agency Decision” refers to cases that were decided by agencies such as public housing authorities based on issues where they had the legal authority to make a final determination about the outcome of the tenant’s case. “Uncontested Court Decision” refers to cases where a judge or commissioner made the final decision about a case outcome, and there was no indication of disagreement in the court record. A “Contested Decision,” on the other hand, indicates that one party did not agree with the court ruling (i.e., when a writ of restitution was issued but the tenant and their attorney disputed the court’s decision). While terminology is not standardized across legal aid providers, “Extensive Service” may refer to cases that require full representation in court or those that require in-depth support (such as the writing of a letter) without full legal representation. Case types denoted with an asterisk represent cases that were examples of full representation from appointed counsel, accounting for approximately 64.1% of cases.

Figure 3: Levels of service and case types



Basis for unlawful detainer

The case data tracks which reason is justifying an unlawful detainer. The most frequent reason is non-payment of rent, which is listed as a cause in 62% of the cases. Causes are not mutually exclusive, and landlords or property owners can list multiple causes as the basis of an eviction. Table 5 shows the distribution of the three most common causes listed: non-payment of rent, non-compliance with the lease terms, and concerns about misuse of property involving waste, nuisance, health, and/or safety.

Table 5. Basis for unlawful detainer by county/region

County/Region	Bases for unlawful detainer		
	Non-payment of rent	Non-compliance with lease terms	Waste, nuisance, safety concern
Clark	79.6%	7.2%	3.9%
King	65.7%	13.3%	9.0%
Pierce	72.0%	10.0%	4.1%
Snohomish	59.8%	19.0%	7.5%
Spokane	55.9%	12.5%	19.3%
Eastern Balance of State	52.2%	21.4%	16.7%
Western Balance of State	36.1%	18.1%	19.3%
TOTAL	62.0%	13.5%	10.0%

Notes: Cells display the percentage of cases within each county with a particular basis listed. Reasons are not mutually exclusive. Estimates are based on 6,424 cases.

Outcomes

Clients working with appointed counsel experience a wide array of outcomes to their cases, including but not limited to:

- Case abandoned by plaintiff
- Case dismissed
- Extra days to move out
- Helped obtaining repairs
- Helped obtaining rental assistance
- Saved money
- Negotiated agreement to move or preserve tenancy
- Order of Limited Dissemination issued
- Writ of Restitution issued, with or without judgment

Importantly, not all of these outcomes are mutually exclusive and some occur outside of the legal system. For example, a person can receive rental assistance (or extra days to move), but also still be required to vacate the residence. In addition, both a negotiated agreement to move and a writ of restitution lead to a tenant vacating the property. With the latter, a tenant can also receive an order of limited dissemination, which provides protection from having an eviction being used in any future tenant screening process.

Table 6 provides details for selected outcome experiences of clients as categorized by race. The “other non-White” racial category is comprised primarily of those identifying as multiracial. The “other Indigenous” racial category is comprised primarily of those identifying as Native Hawaiian or Pacific Islander.

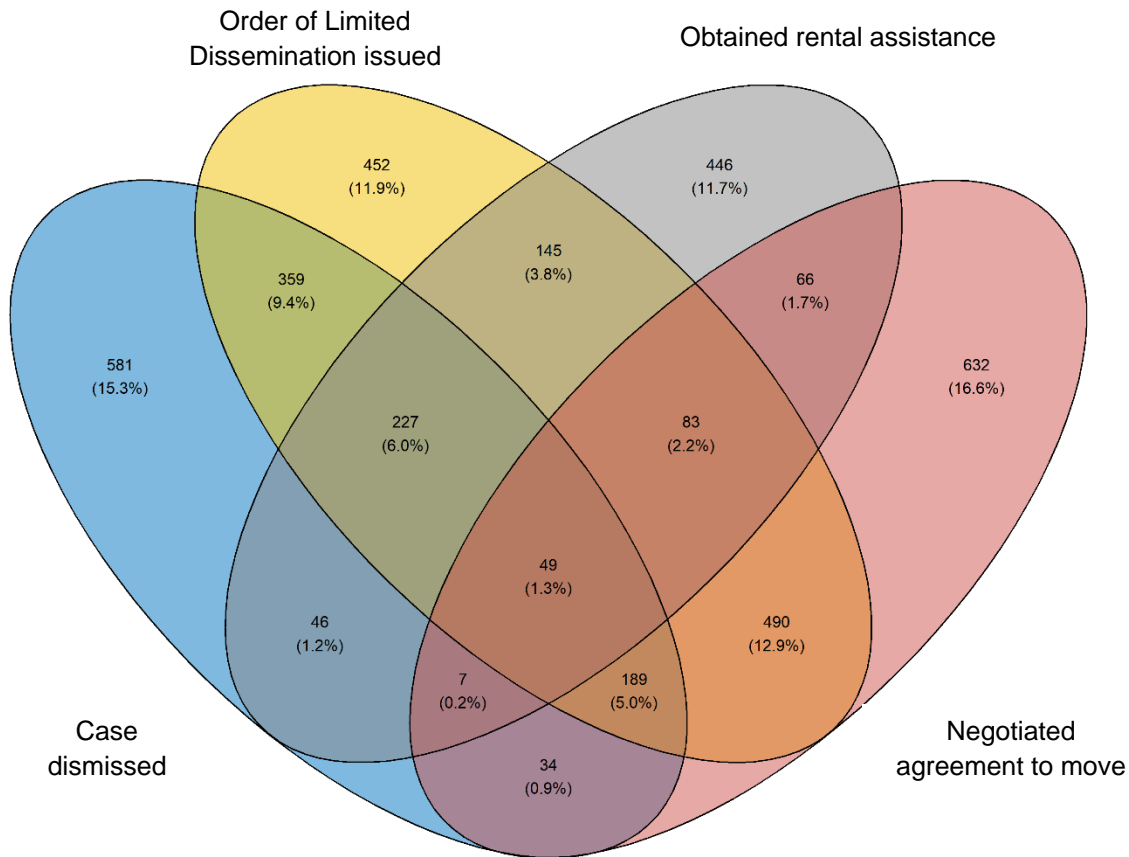
Table 6. Case outcomes by client race

Selected outcomes	Race						All	N
	Black	Latino	Native American	White	Other non-White	Other Indigenous		
Case dismissed	24.9	28.1	28.5	26.2	19.8	30.1	26.3	1,492
Extra days to move out	18.4	16.9	16.9	24.4	18.9	13.9	21.4	3,661
Obtained rental assistance	27.1	23.9	24.6	14.0	19.8	30.1	18.9	3,516
Negotiated agreement:								
To move	23.6	26.5	24.9	30.0	23.9	18.1	27.3	3,997
To preserve tenancy	20.7	20.6	21.4	11.9	14.0	15.7	15.2	3,306
Order of Limited Dissemination issued	33.9	35.1	38.6	35.8	28.4	36.7	35.2	4,441
Writ issued	10.0	13.3	12.8	18.1	13.2	7.2	15.1	855
TOTAL	956	573	337	3,088	243	166		5,669

Notes: Cells are percentages representing the percentage of clients within each racial group who experienced a particular outcome. Outcomes are not mutually exclusive. The “N” column refers to the number of cases resulting in that outcome. The “TOTAL” row refers to the number of clients within each racial group. The 306 cases with unknown client race are not presented in the table but are included in the “All”, “N”, and “TOTAL”.

To examine the degree to which some of these outcomes intersect, Figure 4 illustrates the intersection of cases that were dismissed along with the outcomes of obtaining rental assistance, a negotiated agreement to move, and the issuance of an order of limited dissemination.

Figure 4. Frequency and overlap of common outcomes



In addition, 420 case outcomes included money saved or earned by the tenant, either because of forgone debts and fees or through a direct payment, such as through a “cash for keys” arrangement. Of the 398 cases with recorded amounts, clients saved an average of \$9,500, with the value of savings ranging from \$215 to \$100,000 (though only 3 cases reported savings greater than \$65,000).

Findings: Interviews & Narrative Reports

The findings from the qualitative analyses from the interviews and narrative reports are clustered within the larger themes of program implementation and participant experiences with the appointed counsel program. Each major finding is briefly summarized, followed by several exemplary quotes from participants.

Program implementation

The initial phase of program implementation proceeded largely as planned. The program was fully operational three months ahead of schedule, and legal aid providers worked closely with OCLA, community-based organizations, and local government agencies to ensure broad awareness of court-appointed counsel throughout the state.

Program awareness among tenants

Tenants report a wide range of experiences in terms of how they learned about the program. Many tenants became aware of their right to appointed counsel through community action agencies and nonprofit organizations that distributed rental assistance and other social services. Others contacted the Coordinated Legal Education, Advice and Referral (CLEAR) Hotline or the Eviction Defense Screening Line (EDSL) or contacted legal aid providers directly after doing their own research.

A minority of tenants already knew that they had a right to attorney at the time they received an unlawful detainer notice. Several tenants learned about the program through appearances in court or referral from their judge. Many were referred to the program by their landlord, social networks, or the news. In a minority of cases, the program conducted outreach to tenants. Several tenants showed up for their court hearings without legal representation, and counsel was appointed by the court in those cases.

“When I was in court. When I went to court, they read that statement that I could have a attorney and that if I qualified that I could have an attorney represent me. The judge asked me if I wanted somebody to represent me and I told him absolutely. Then they made me go downstairs and qualify for it. I met with the attorneys downstairs with Skagit Legal Aid.”

“If I hadn’t known about the Thurston County attorneys, I could not have afforded anything else. So I can’t answer that because I don’t know what I would’ve done if I hadn’t had that option. I actually don’t know what I would’ve done. If she wanted to serve me with papers, that’s it, that’s all I can do.”

Attorney staffing challenges

Staffing challenges with attorneys took two main forms. First was the difficulty of simply finding sufficient number of attorneys to staff the program. Both tenants and attorneys expressed frustration with staffing disruptions and the ongoing challenge of maintaining adequate staff capacity for appointed counsel cases. Overall, program participants who worked with multiple attorneys reported lower levels of trust in their attorneys.

Second, the complexity of eviction proceedings and the multiple barriers to housing stability facing tenants caused many attorneys to provide significant support to them beyond the courtroom. Attorneys often played an important role in educating clients about their rights and obligations, because many of them had little familiarity with eviction proceedings prior to their cases. Attorneys also helped clients access rental assistance, search for new housing or emergency shelter, and navigate challenging relationships with their landlords and landlords’ attorneys. In these ways, attorneys functioned as quasi-social service providers in addition to being legal advocates for their clients. Helping tenants navigate their difficult circumstances outside of the courtroom – in an effort to ultimately prevent homelessness – contributed to exhaustion and burnout among some attorneys employed by legal aid providers.

Logistical difficulties

In rural parts of the state, tenants and attorneys experienced several common challenges during eviction proceedings. Tenants in rural communities sometimes had to travel long distances to attend multiple court hearings, a feat that was often made more difficult by employment loss and other circumstances leading up to their eviction. A lack of e-filing in several court systems further increased the time commitment and difficulty of eviction proceedings in rural areas.

Participant experiences with the appointed counsel program

In order to understand the impact of the program on legal aid clients, we focused on the topics and experiences that emerged as being the most prevalent across all interview participants.

General precarity

The population of people eligible to receive appointed counsel through this program were often living with difficult circumstances prior to the eviction proceedings. This context is important for understanding the impact and limitations of the program. Tenants experience challenges in terms of their own physical and mental health, disability, the health of immediate family members, living in difficult situations, and employment difficulties before and during their eviction cases. These difficulties are exacerbated for clients who do not have reliable transportation, internet, or phone access.

“And then, the following day, my mother passed away unexpectedly. So I was dealing with that on top of this eviction.”

“Well, I can definitely say because of the stress and anxiety, I was going through this, that’s why I had my stroke, because I was going through anxiety, didn’t know where I was going to live. It was just such a stressful situation.”

“So it’s like I had to choose between therapy or case management to get housing and desperately needing housing. I let my mental health go.”

“We’re just living day to day right now.”

Financial precarity

In addition to already experiencing difficulties in other domains, the population of people facing potential eviction also tend to have high levels of material hardship or financial insecurity. Indeed, most people in that situation meet the indigence eligibility requirement for the appointed counsel program. A majority of tenants reported household incomes below \$20,000 a year and several tenants reported that their primary income comes from disability or social security payments.

Many people had an unexpected employment loss or another financial shock precede their eviction. For tenants who were able to remain housed in the wake of their eviction cases, pandemic-era rental assistance programs often played an essential role in helping them secure adequate housing after they vacated the property in the eviction case. In a relatively small number of cases, tenants found

new employment, borrowed money from friends, or secured other forms of social support to pay their rent after their case had concluded.

“I’m a single mom, so I have two kids and I work full-time. And then my job got... They didn’t have any more funding, so they cut it off. And then I tried to apply [to] a different job, and the person, that [was] supposed to hire me at the last minute, he said, ‘No, they found another person.’ So I was in the middle of just trying to find a new job. The bills, they start piling up. And I don’t have any other income.”

Instability and uncertainty

Among our interview participants, the emotional toll of going through the eviction process was enormous. People reported that the process induced significant stress, fear, and anxiety. Many people described the extreme mental and emotional difficulty of not knowing what was going to happen with their living situation. This sense of instability and uncertainty stands out as a defining aspect of going through an eviction process as a tenant.

“It caused a big stress between everybody, just this unknowing what was going to happen tomorrow and how it was going to affect us in the long run. It was just an emotional roller coaster. One minute we’d be fine, and the next minute I’d be like, ‘What are we going to do tomorrow?’ It was just overall stress right on top of that, trying to fight to maintain custody of my kids. It was just very, very trying, that to say stressful is an understatement.”

“Emotionally, I was devastated. I couldn’t function at all. I was already in mental health treatment at the time, and I needed a stable place for that. And that disrupted it.”

“I’ve been evicted twice and I feel really unstable.”

Perhaps because of the general precarity appointed counsel clients are already living in, coupled with the uncertainty of an eviction proceeding, changes in attorneys over the course of the case created additional stress. A number of people expressed not appreciating working with more than one lawyer, especially when they felt that the treatment or the legal advice was inconsistent. Similarly, service providers note that having the same attorney for the duration of a case allowed for valuable continuity in service provision.

“The first attorney was kind of, it was my fault that I was in this situation. It was not a fair process at all. The second attorney worked his butt off for me, so I would say that it was very fair. So, if I was to give it an average, I’d say it’s probably a middle between both of them then.”

“The first attorney. It was very cordial. It was very nice. ‘Of course, I’ll set up that meeting. Of course, I’ll contact the property owners. Of course, I’ll contact the attorneys. Yeah, no problem.’ And then when I got the eviction notice, it was kind of like, ‘Oh, well, you’re just going to have to move out or get evicted. There’ll be another attorney that’ll represent you once you end up [in] court.’ I was like, ‘What?’”

Protection

One of the key themes that emerged from our interviews with tenants is the widespread sense of feeling protected by their appointed counsel. The eviction process can seem overwhelming, daunting, and confusing. Many tenants had never worked with an attorney before. But having an attorney helped people feel that they were not alone in the process and that someone with authority was looking out for their interests.

Attorneys gave their clients a sense of security and stability, while helping clarify and navigate the process. Doing so included instances in which attorneys encouraged tenants to persist toward their desired case outcome and instances in which attorneys explained to tenants that their desired outcome may not be achievable. People expressed feeling like their attorney was a bulwark against both hostile landlords and intimidating court procedures.

“I felt like ... my attorney, was the savior. He was the one person in that room that gave a damn about my situation. ... it’s kind of like, here I am in a hostile environment.. And then I get [my attorney], knight in shining armor comes through, he is like, yeah, I’ll back you. It’s like, finally, some backup.”

“It made it so much easier to be like, ‘Talk to my lawyer,’ versus saying anything or doing anything. It gave me security to think that I didn’t have to fight myself, that I had someone on my side, that I wasn’t going up against him [the landlord].”

“So it felt like I had a bodyguard in a way. You know what I mean? Someone who had my interest as their best interest”

“Just having someone by your side, just, it all just goes back to just having someone on your side to help you through the process. If you don’t have an attorney, then on your own, and just having them there just was a relief.”

Empowerment

In addition to feeling like their appointed counsel protected them during eviction proceedings, tenants experienced a sense of empowerment. There was appreciation for the opportunity to have their voice and their story heard in court with legal representation. The responsiveness of the attorneys and their ability to provide timely and important information helped clients make informed decisions and more capably look out for their own interests.

A majority of participants had positive interactions with attorneys. Attentiveness, timeliness, and responsiveness were repeatedly named as positive characteristics. Some participants highlighted that attorneys asked them for input or approval before making decisions or communicating with opposing attorneys or the court.

“She explained it to us, step-for-step, and she kept me informed, because to get in contact with their lawyer, she sent paperwork to them, and then text messages, whatever what she emailed them, the lawyer, she would email it to me also. Yep, so, I was never out of the loop when they were speaking of all of this information.”

“... she was really good at explaining things to me, so she like, here are your options. And she didn’t really make me do anything. She laid it out for me so that way I could make the decision. So it wasn’t like anything was against me per se. I had a say in the matter the whole time on which way we were going to go.”

A small number of interviewees reported negative experiences with attorneys. The main concern being around communication. Lack of responsiveness and timely follow-through stood out to some. Others highlighted abrasive communication style (e.g., short temper, rushing through meetings) as a factor that worsened their experience.

Program effectiveness

Legal representation mitigated some of the most harmful impacts of receiving an unlawful detainer notice. Program participants were often facing multiple threats to housing stability and wellbeing, and the presence of appointed counsel often helped prevent evictions which could have led to worse outcomes including homelessness. Many interview participants stated that they avoided homelessness because they were able to access legal representation. At the same time, some participating attorneys see the difficult life circumstances of their clients being better addressed by a social worker or other social services support.

“But with having an attorney, it seems like you can get some more time if you need it.”

“I didn’t have any money to pay what the ridiculous amount that she was asking for. I know that I would’ve had to... I’d be looking at, I needed to be out at a certain time or have somebody move my stuff out for me, which if you don’t want that, then you’re scrambling trying to figure out, trying to open storage and U-hauls, and where I live... if your stuff’s out there, it’s gone. So yeah, I’d be homeless. For sure.”

Considerations for Future Policy & Evaluation

Constraints on program impact

The appointed counsel program faces some limitations. Rental costs in Washington continue to strain tenants’ financial situations, particularly in urban contexts. Tenants who were forced to move faced significant challenges finding adequate housing for themselves and their families. Even in cases where tenants avoided an eviction judgment, they frequently reported moving to lower-quality or less desirable housing. Several interview participants became homeless despite avoiding an eviction judgment.

Regardless of their case outcomes, tenants experienced significant hardships during eviction cases. Many defendants detailed the inherent stress of eviction proceedings and explained how stress contributed to other challenges including familial conflict, domestic violence, and criminal legal system contact. Several tenants also experienced stress-related medical conditions during the course of their evictions. Children in evicted households missed school, were forced to move, and experienced significant material hardship during eviction cases. Despite their best efforts, legal aid providers are not able to alleviate many of these consequences of eviction filings.

Finally, all of our data were collected during a period of widespread rental assistance. There is an important open question about program participants who remained housed but who also had rental assistance. The overlay of unemployment due to the COVID-19 pandemic is also an important factor that we cannot parse out from our findings.

Default judgments

An important limitation of the appointed counsel program is the fact that many tenants who receive unlawful detainer summonses do not ever appear in court. In these cases, courts typically issue “default judgments” and tenants are evicted. County-level default rates in Washington ranged between 30 and 50 percent from 2010 to 2017¹⁴, including default rates consistently near 50 percent in King County.¹⁵ Some legal aid providers and courts have implemented emergency stays of default judgments and a process to vacate these judgments, but tenant nonresponses to eviction summonses and absences in court are still common throughout the state. The qualitative data included in this report indicate that many program participants learned about their right to counsel in court, suggesting that increased tenant outreach could improve court appearance rates.

Program costs

Calculation of program cost is based on financial and case records for FY 2023, the only 12-month period that the program has been fully operational:

- average cost per case: \$1,289
- average hourly cost: ~\$120 per hour or less

Areas for further exploration

Further research could contribute to a deeper understanding of the appointed counsel program and its impacts. Unlawful detainer proceedings are affected by a variety of factors that continue to change over time, and this report does not examine some of those factors. Additionally, the proliferation of similar programs across the U.S. has created an opportunity for comparative analysis.

It is not clear how court proceedings and case outcomes might be affected by courts’ decisions to operate in-person, virtually, or over the phone. Each of these formats has benefits and limitations which are not well understood at this point. In non-urban counties such as Lewis, Mason, Grays Harbor, and Pacific counties, for example, legal aid providers indicated that inadequate internet access and a lack of e-filing in local courts created barriers to court participation for their clients. Long travel distances, which have been associated with adverse case outcomes in prior research¹⁶, are another factor which could potentially affect tenants’ program participation in suburban and rural parts of Washington and could be reduced through virtual or phone-based court hearings.

¹⁴ Thomas, T. A., Toomet, O., Kennedy, I., & Ramiller, A. (2019). The state of evictions: Results from the University of Washington evictions project. <https://evictionresearch.net/washington/results.html#eviction-counts>

¹⁵ Cookson, T., Diddams, M., Witter, E., & Maykovich, X. 2018. Losing Home: The Human Cost of Eviction in Seattle. https://www.seattle.gov/Documents/Departments/SeattleWomensCommission/LosingHome_9-18-18.pdf

¹⁶ A. Hoffman, D., & Strezhnev, A. (2023). Longer trips to court cause evictions. *Proceedings of the National Academy of Sciences*, 120(2), e2210467120.

Further qualitative research could also aim to integrate perspectives from other court actors including landlords, their attorneys, and judicial officers. Qualitative research could generate in-depth insights about the program and opportunities for continued improvement from these actors as well as legal aid providers and their many local partners which include public health agencies, social service organizations, and housing providers.

As legal representation becomes more common for tenants facing eviction across the U.S., further research can help identify how Washington's innovative appointed counsel program compares to similar programs. While the results from this report suggest that Washington's program has helped mitigate some of the harmful consequences of evictions, baseline analyses are insufficient to determine the extent to which appointed counsel influences longer-term client circumstances, such as repeated experiences with housing instability.

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Appendix

A. Key findings from right-to-counsel (RTC) programs in the U.S.

New York City, NY ¹⁷	<ul style="list-style-type: none"> ● 84% of represented tenants can remain in their homes if desired. ● More than half of clients are in rent-regulated housing. ● Led to a 41% decrease in evictions. ● Consistent growth in caseload capacity over 5 years.
Baltimore, MD ¹⁸	<ul style="list-style-type: none"> ● For every dollar invested in RTC, there are \$6.24 savings for the city and state. <ul style="list-style-type: none"> ○ \$3.06 savings per dollar invested in Baltimore alone. ● 84% of evictions are filed when only one month of rent is due.
Connecticut ¹⁹	<ul style="list-style-type: none"> ● 82% of RTC clients want to prevent an involuntary move. <ul style="list-style-type: none"> ○ 71% were successful. ● 80% of RTC clients wanted to avoid having an eviction on their record. <ul style="list-style-type: none"> ○ 76% were successful. ● Cost savings were between \$5.8-\$6.3 million over eleven months in 2022. ● 75% of clients are BIPOC; 50% have a disability; 50% have children; 59% indicated their home had some deficit.
Kansas City, MO ²⁰	<ul style="list-style-type: none"> ● 91.5% of represented clients avoided eviction. ● When lawyers are paired with rental assistance, eviction rates decrease by an additional 20%.
Cleveland, OH ²¹	<ul style="list-style-type: none"> ● 93% of represented clients avoided a move. ● 83% of represented clients got rental assistance as a direct result of legal representation. ● 97% who sought monetary relief won. ● \$11.8-\$14 million in observed financial benefits.

¹⁷ NCCRC. (2022, March). *All About the Right to Counsel for Evictions in NYC*. Retrieved from http://civilrighttocounsel.org/major_developments/894.

¹⁸ Stout. (2020, May) *The Economic Impact of an Eviction: Right to Counsel in Baltimore City*. Retrieved from <https://www.stout.com/en/news/stout-completes-study-eviction-right-counsel-baltimore>.

¹⁹ NCCRC. (2023, January). *All About Connecticut's Eviction Right to Counsel*. Retrieved from http://civilrighttocounsel.org/major_developments/1367.

²⁰ NCCRC. (2023, March). *All About the Tenant Right to Counsel in Kansas City*. Retrieved from http://civilrighttocounsel.org/major_developments/1545.

²¹ NCCRC. (2023, February). *All about Cleveland's Eviction Right to Counsel*. Retrieved from http://civilrighttocounsel.org/major_developments/1382.

B. Washington's Appointed Counsel Timeline

In January of 2022, Washington reached full implementation of the appointed counsel program in every judicial district - three months ahead of schedule. Implementation of SB 5160 interacted with key dates relating to the COVID-19 response and other tenant supports and protections.

- **March 18, 2020:** Governor Inslee issues eviction moratorium.
- **April 22, 2021:** Governor Inslee signs SB 5160 into law making the appointed counsel program effective.
- **April 2021:** OCLA provides early authorization for appointed counsel providers to hire, train, and deploy attorneys in Spokane, Clark, King, Pierce, and Snohomish counties.
- **June 21, 2021:** Governor Inslee issues "Bridge" Proclamation 21-09.
- **July 2021:** OCLA delivers the first implementation plan for the appointed counsel program.
- **July – August 2021:** OCLA contracts with 13 civil legal aid programs to provide legal aid services in every judicial district of the state and issued authorization to recruit and hire up to 70 FTE attorneys to be trained and dedicated to representing indigent tenants throughout Washington State.
- **September 2021:** Statewide Eviction Defense Screening Line (EDSL) opens for operation; indigency screening and assignment of eligible tenants to contracted legal aid providers occurs within two working days, on average, following referral to or tenant request for services.
- **October 2021:** OCLA certifies that attorneys are hired, trained, and available for appointment in the first 18 of the state's 37 judicial districts.
- **October 31, 2021:** WA state eviction moratorium expires.
- **January 18, 2022:** OCLA certifies that attorneys are trained and available for appointment in all 37 judicial districts (reaching full implementation 3 months early)
- **July 28, 2022:** OCLA releases its first annual report.
- **April 2023:** Washington State Legislature appropriates additional funding for the FY 2023-2025 biennium for the appointed counsel program.
- **April 30, 2023:** Requirement for housing providers to offer reasonable payment plans with any termination notice for debts between March 1, 2020 and April 30, 2023 expired.
- **July 1, 2023:** Eviction Resolution Pilot Program expires.