

CHAPTER 372

COURTS

SENATE BILL 19-180

BY SENATOR(S) Winter, Court, Fenberg, Moreno, Rodriguez;
also REPRESENTATIVE(S) McCluskie, Arndt, Bird, Buckner, Cutter, Duran, Esgar, Exum, Galindo, Garnett, Gonzales-Gutierrez,
Herod, Hooton, Kennedy, Lontine, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Titone, Valdez A.,
Valdez D., Weissman, Becker.

AN ACT**CONCERNING THE CREATION OF AN EVICTION LEGAL DEFENSE FUND, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) There is a disparity in the availability of legal counsel for low-income Americans. Eighty-six percent of low-income Americans were not represented or inadequately represented in civil cases nationally in 2017.

(b) There is less than one civil legal aid attorney available for every thirty thousand people in poverty in Colorado, ranking Colorado ahead of only four other states: Idaho, Mississippi, Alabama, and South Carolina;

(c) Our system of justice depends on having a fair chance to be heard, regardless of who you are, where you live, or how much money you have. Having access to justice means a person should be able to learn about his or her rights and then give effective voice to him or her in a neutral and nondiscriminatory, formal or informal process that determines the facts, applies the rule of law, and enforces the result. No one should face the loss of something as essential to well-being as housing without assistance navigating the legal system from an attorney.

(d) There were nearly forty-five thousand evictions filed in Colorado in 2017. Most of these renters faced the loss of their housing without help from a lawyer. A 2017 report found that, in Denver eviction cases, landlords were represented nearly

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ninety percent of the time, while tenants were represented by counsel in fewer than one percent of cases.

(e) Evictions contribute to extreme hardship, including negative health effects, higher housing costs, decreased housing quality, and an increased likelihood of future housing insecurity;

(f) Evictions are especially detrimental to young children, who need reliable education and community ties for their emotional and mental development. Children who experience an eviction are more likely to suffer from poor academic performance, behavioral issues, or homelessness later in life.

(g) Expanding the availability of legal resources for tenants saves taxpayers money. A study of the projected economic return for an eviction defense program in Philadelphia found that spending \$3,500,000 per year on legal defense would save \$45,200,000 by reducing shelter costs, hospital costs, mental health costs, and juvenile delinquency. A cost-benefit analysis published by the New York City bar association also showed an economic benefit to the city generated by expanding eviction legal resources for tenants.

(h) Data from the eviction legal defense pilot program in Denver demonstrates that providing additional legal resources to tenants facing an eviction helps reduce the consequences of involuntary displacement; and

(i) Legal counsel can provide significant help to renters who are facing an eviction. Counsel can be critical in facilitating a resolution that allows tenants to remain in their homes, arrange additional time to find another home, or keep a judgment off a tenant's record.

(2) Therefore, the general assembly declares that it is necessary to expand the availability of legal assistance to help indigent persons who are experiencing an eviction or are at immediate risk of an eviction.

SECTION 2. In Colorado Revised Statutes, **add** 13-40-127 as follows:

13-40-127. Eviction legal assistance - fund - rules - report - definitions.

(1) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADMINISTRATOR" MEANS THE STATE COURT ADMINISTRATOR, APPOINTED PURSUANT TO SECTION 13-3-101.

(b) "FUND" MEANS THE EVICTION LEGAL DEFENSE FUND ESTABLISHED IN SUBSECTION (2) OF THIS SECTION.

(c) "INDIGENT" MEANS A PERSON WHOSE INCOME DOES NOT EXCEED TWO HUNDRED PERCENT OF THE FAMILY FEDERAL POVERTY GUIDELINES, ADJUSTED FOR FAMILY SIZE, DETERMINED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(d) "QUALIFYING ORGANIZATION" MEANS AN ORGANIZATION THAT:

(I) HAS DEMONSTRATED EXPERIENCE AND EXPERTISE IN PROVIDING FULL SERVICE CIVIL LEGAL SERVICES TO INDIGENT CLIENTS;

(II) IS BASED IN COLORADO;

(III) IS EXEMPT FROM TAXATION PURSUANT TO SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; AND

(IV) OBTAINS MORE THAN TWENTY PERCENT OF ITS FUNDING FROM SOURCES OTHER THAN GRANTS FROM THE FUND.

(2) THERE IS ESTABLISHED IN THE STATE TREASURY THE EVICTION LEGAL DEFENSE FUND. PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE STATE COURT ADMINISTRATOR IS AUTHORIZED TO MAKE GRANTS FROM THE FUND TO QUALIFYING ORGANIZATIONS PROVIDING CIVIL LEGAL SERVICES TO INDIGENT RESIDENTS OF THE STATE OF COLORADO.

(3) THE ADMINISTRATOR SHALL AWARD GRANTS FROM THE FUND TO QUALIFYING ORGANIZATIONS TO PROVIDE LEGAL ADVICE, COUNSELING, AND REPRESENTATION FOR, AND ON BEHALF OF, INDIGENT CLIENTS WHO ARE EXPERIENCING AN EVICTION OR ARE AT IMMEDIATE RISK OF AN EVICTION. MONEY FROM THE FUND MAY BE USED FOR SERVICES THAT INCLUDE:

(a) PROVIDING LEGAL REPRESENTATION TO INDIGENT TENANTS FOR RESOLVING CIVIL LEGAL MATTERS RELATED TO AN EVICTION OR IMPENDING EVICTION. SUCH REPRESENTATION MAY INCLUDE REPRESENTATION IN ANY FORCIBLE ENTRY AND DETAINER PROCEEDING OR ACTION FOR MONETARY DAMAGES RELATED TO NONPAYMENT OF RENT OR OTHER LEASE VIOLATION, LEGAL ASSISTANCE PRIOR TO THE FILING OF AN EVICTION, OR ANY OTHER JUDICIAL ACTIONS IN WHICH LEGAL REPRESENTATION IS NECESSARY TO PROTECT THE INTERESTS OF AN INDIGENT TENANT.

(b) ESTABLISHING CLINICS DESIGNED TO EDUCATE AND ASSIST INDIGENT TENANTS IN EVICTION PROCEEDINGS, INCLUDING PROVIDING INFORMATION RELATED TO THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS;

(c) PROVIDING LEGAL INFORMATION AND ADVICE TO INDIGENT TENANTS;

(d) REFERRING CLIENTS TO APPROPRIATE PERSONS OR AGENCIES THAT PROVIDE ASSISTANCE WITH ISSUES RELATED TO HOUSING; AND

(e) PROVIDING MEDIATION SERVICES FOR DISPUTES BETWEEN A LANDLORD AND TENANT THAT COULD PREVENT OR RESOLVE THE FILING OF AN EVICTION.

(4) (a) A QUALIFYING ORGANIZATION SEEKING TO RECEIVE A GRANT FROM THE FUND SHALL SUBMIT AN APPLICATION EACH YEAR TO THE STATE COURT ADMINISTRATOR ON A FORM PROVIDED BY THE ADMINISTRATOR. THE APPLICATION FORM MUST REQUEST ANY INFORMATION THAT THE ADMINISTRATOR NEEDS TO DETERMINE WHETHER THE APPLYING ORGANIZATION MEETS THE QUALIFICATIONS FOR RECEIPT OF A GRANT.

(b) (I) ON OCTOBER 1, 2019, AND ON JULY 1 EACH YEAR THEREAFTER, THE ADMINISTRATOR SHALL DISTRIBUTE GRANTS FROM THE FUND, SUBJECT TO AVAILABLE APPROPRIATIONS, TO A QUALIFYING ORGANIZATION FOR EACH COUNTY OR CITY AND COUNTY IN PROPORTION TO THE NUMBER OF FORCIBLE ENTRY AND DETAINER PETITIONS FILED IN THE COUNTY OR CITY AND COUNTY.

(II) IF THERE IS MORE THAN ONE QUALIFYING ORGANIZATION WITHIN A COUNTY OR CITY AND COUNTY, THE ADMINISTRATOR SHALL DISBURSE THE GRANT FOR SUCH COUNTY OR CITY AND COUNTY TO EACH QUALIFYING ORGANIZATION IN PROPORTION TO THE NUMBER OF CLIENTS SERVED BY EACH QUALIFYING ORGANIZATION OR ITS PREDECESSOR IN THE PRECEDING YEAR.

(c) EACH QUALIFYING ORGANIZATION THAT RECEIVES A GRANT PURSUANT TO THIS SECTION SHALL SUBMIT AN ANNUAL REPORT TO THE ADMINISTRATOR THAT INCLUDES THE FOLLOWING INFORMATION, TO THE EXTENT POSSIBLE AND TO THE EXTENT THAT IT DOES NOT VIOLATE THE PRIVILEGE AND CONFIDENTIALITY OF AN ATTORNEY CLIENT RELATIONSHIP:

(I) THE NUMBER OF CLIENTS SERVED BY THE ORGANIZATION;

(II) THE NATURE OF THE ASSISTANCE RENDERED TO EACH CLIENT, SUCH AS PROVIDING INFORMATION, ADVICE, MEDIATION, OR REPRESENTATION;

(III) THE TYPE OF ALLEGED LEASE VIOLATION, IF ANY, FOR EACH CLIENT;

(IV) THE AMOUNT OF RENT IN DISPUTE, IF ANY, FOR EACH CLIENT;

(V) THE NUMBER OF TENANTS THE ORGANIZATION WAS UNABLE TO SERVE;

(VI) DEMOGRAPHIC DATA FOR CLIENTS ASSISTED BY THE ORGANIZATION WITH A GRANT FROM THE FUND, INCLUDING ZIP CODE, HOUSEHOLD INCOME, FAMILY STATUS, RACE AND ETHNICITY INFORMATION, AGE, AND DISABILITY STATUS;

(VII) THE NUMBER OF REFERRALS TO A RENTAL ASSISTANCE OR MEDIATION PROGRAM PROVIDED TO CLIENTS; AND

(VIII) THE OUTCOME OF EACH CLIENT'S CASE, INCLUDING WHETHER A CASE WAS DISMISSED, JUDGMENT FOR POSSESSION WAS ENTERED, A STIPULATED AGREEMENT WAS MADE THAT PREVENTED ENTRY OF A JUDGMENT FOR POSSESSION, A STIPULATED AGREEMENT WAS MADE THAT PROVIDED THE CLIENT WITH AN OPPORTUNITY TO VACATE A JUDGMENT FOR POSSESSION AT A LATER DATE, AND WHETHER THE CLIENT HAD TO MOVE FROM THE RESIDENCE AND, IF SO, WHETHER THE CLIENT RECEIVED ADDITIONAL TIME TO MOVE AND HOW MUCH TIME WAS PROVIDED.

(5) (a) IN ADDITION TO ANY APPROPRIATION FROM THE GENERAL FUND, THE ADMINISTRATOR MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. THE ADMINISTRATOR SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE ADMINISTRATOR MAY EXPEND MONEY FROM THE FUND FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS SECTION. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(6) (a) ON OR BEFORE DECEMBER 31, 2024, AND ON OR BEFORE DECEMBER 31 EVERY FIVE YEARS THEREAFTER, THE ADMINISTRATOR SHALL EVALUATE THE USE OF GRANT MONEY AWARDED FROM THE FUND. THIS EVALUATION MUST CONSIDER THE FOLLOWING METRICS, AND WHETHER EACH HAS INCREASED OR DECREASED COMPARED TO THE YEARS BEFORE THE FUND WAS ESTABLISHED:

(I) THE PERCENTAGE OF FORCIBLE ENTRY AND DETAINER FILINGS THAT RESULTED IN JUDGMENTS ORDERED AGAINST TENANTS, ORGANIZED BY WHETHER THE TENANT WAS REPRESENTED BY AN ATTORNEY;

(II) THE NUMBER OF WRITS OF RESTITUTION ISSUED, ORGANIZED BY WHETHER THE TENANT WAS REPRESENTED BY AN ATTORNEY;

(III) THE RATE OF LEGAL REPRESENTATION AMONG DEFENDANTS FACING EVICTION;

(IV) THE NUMBER OF ANSWERS FILED IN RESPONSE TO FORCIBLE ENTRY AND DETAINER PETITIONS, ORGANIZED BY WHETHER THE TENANT WAS REPRESENTED BY AN ATTORNEY;

(V) BASED ON INFORMATION REPORTED TO THE ADMINISTRATOR BY QUALIFYING ORGANIZATIONS, THE NUMBER OF INDIGENT CLIENTS WHO HAVE BEEN REFERRED TO PROGRAMS THAT PROVIDE EMERGENCY RENT ASSISTANCE OR MEDIATION SERVICES OR TO OTHER PUBLIC AND NONPROFIT RESOURCES THAT WILL BOLSTER THE ECONOMIC SECURITY OF TENANTS AND THEIR FAMILIES;

(VI) BASED ON INFORMATION REPORTED TO THE ADMINISTRATOR BY QUALIFYING ORGANIZATIONS, THE DISTRIBUTION OF INFORMATION TO INDIGENT TENANTS CONCERNING STATE LAWS RELATED TO THE LANDLORD-TENANT RELATIONSHIP; AND

(VII) BASED ON INFORMATION REPORTED TO THE ADMINISTRATOR BY QUALIFYING ORGANIZATIONS, THE NUMBER OF INDIGENT CLIENTS WHO WERE PROVIDED LEGAL ADVICE.

(b) AN EVALUATION PERFORMED PURSUANT TO THIS SUBSECTION (6) MUST INCLUDE, AND CONSIDER, THE INFORMATION PROVIDED TO THE ADMINISTRATOR BY QUALIFIED ORGANIZATIONS RELATED TO CLIENT SERVICES PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION.

(c) NOTWITHSTANDING SECTION 24-1-136(11)(a)(I), THE ADMINISTRATOR SHALL SUBMIT AN EVALUATION REQUIRED PURSUANT TO THIS SUBSECTION (6) TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

SECTION 3. In Colorado Revised Statutes, 13-3-101, **add** (7.5) as follows:

13-3-101. State court administrator - repeal. (7.5) THE STATE COURT ADMINISTRATOR SHALL MAKE GRANTS FROM THE EVICTION LEGAL DEFENSE FUND PURSUANT TO THE PROVISIONS OF SECTION 13-40-127.

SECTION 4. Appropriation. (1) For the 2019-20 state fiscal year, \$750,000 is appropriated to the eviction legal defense fund created in section 13-40-127 (2), C.R.S. This appropriation is from the general fund. The judicial department is responsible for accounting related to this appropriation.

(2) For the 2019-20 state fiscal year, \$750,000 is appropriated to the judicial department for use by the courts administration division. This appropriation is from the eviction legal defense fund created in section 13-40-127 (2), C.R.S. To implement this act, the division may use this appropriation for grants to qualifying organizations providing civil legal services.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 30, 2019