



Legislation Text

File #: CB 120007, Version: 2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to residential evictions; guaranteeing the right to legal counsel regardless of ability to pay for any residential renter in Seattle responding to an unlawful detainer suit; and adding a new Section 22.206.195 to the Seattle Municipal Code.

WHEREAS, in September 2018, the Seattle Women’s Commission and the King County Bar Association jointly published *Losing Home: The Human Cost of Eviction in Seattle*, finding that households who are evicted face material hardships that make it more difficult to secure safe and affordable housing and that the most disadvantaged groups face the highest likelihood of eviction; and

WHEREAS, the Losing Home report found that most evicted respondents became homeless, with 37.5 percent completely unsheltered, 25.0 percent living in a shelter or transitional housing, and 25.0 percent staying with family or friends. Only 12.5 percent of evicted respondents found another apartment or home to move into; and

WHEREAS, the report also found that tenants commonly reported both mental health issues, such as stress and depression, and physical health issues, such as heart conditions, associated with their eviction; and

WHEREAS, housing instability during childhood has been attributed to an increased likelihood of negative health and educational effects; and

WHEREAS, evictions can lead to long-term economic impact to individuals, families, and the City; and

WHEREAS, in 2018, the King County Medical Examiner’s Office (KCMEO) investigated the deaths of 194 individuals presumed to be homeless. This represents 25 more deaths than investigated in 2017; and

WHEREAS, people experiencing homelessness have a much higher risk than the general population of

developing exposure-related conditions. The KCMEO 2018 investigation found that over half of presumed homeless deaths investigated occurred outside and that approximately 62 percent of presumed homeless deaths investigate were attributed to non-natural causes (drug overdose, accidents (including hypothermia), suicide, homicide, and undetermined); and

WHEREAS, the Washington State Legislature has declared a state policy to help residents who are experiencing a temporary crisis in retaining stable housing to avoid eviction from their homes, as expressed in Laws of 2019 c 356 section 1; and

WHEREAS, tenants with counsel have improved housing stability, both by staying in their residences but also by gaining additional time to relocate and access to emergency rental assistance; and

WHEREAS, starting in 2018, the Seattle Department of Construction and Inspections has contracted with the Housing Justice Project, a program of the King County Bar Association, to provide free legal support to renters facing evictions; and

WHEREAS, the Housing Justice Project has reported that 56 percent of renters facing unlawful detainers in 2019 prevented eviction with the support of City funded legal support, up from less than 24 percent prior to that funding; and

WHEREAS, the Seattle City Council intends that the Seattle Department of Construction and Inspections will continue, and as needed, expand its contract with the Housing Justice Project in 2021 and 2022 to fulfill the commitments in this ordinance and will conduct an open Request for Proposal process during 2022 for awarding funds to qualified attorney organization(s) for 2023 and beyond with contracts, the terms of which do not exceed two years each; and

WHEREAS, the Housing Justice Project has estimated there are 1,200 eviction court filings against individuals and families in Seattle each year; and

WHEREAS, New York City, Newark, Boulder, Baltimore, Cleveland, Philadelphia, and San Francisco have all enacted some form of “right to counsel” legislation for renters facing eviction; and

WHEREAS, to minimize as many barriers to access to counsel as possible while limiting access to those with financial obstacles, this ordinance would require tenants to qualify for representation due to indigency;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 22.206.195 is added to the Seattle Municipal Code as follows:

22.206.195 Right to legal counsel in eviction proceedings

A. Any tenant residing in Seattle who is named in an unlawful detainer suit under chapter 59.18 RCW has the right to legal counsel free of charge as set forth in this Section 22.206.195, if the tenant is indigent. For the purposes of this Section, a person is “indigent” who, at any stage of an unlawful detainer suit, is unable to pay the cost of counsel for representation in the unlawful detainer suit because the person’s available funds are insufficient to retain counsel. Any entity with which the City contracts for legal representation provided under this Section is authorized to establish the process for determining and verifying a tenant’s indigent status.

B. Legal representation through a non-City entity shall be made available to a person described in subsection 22.206.195.A upon that person’s request as soon as practicable after service of a summons for an unlawful detainer suit and at least until the complaint is withdrawn, the case is dismissed, or a judgment is entered.

C. To the extent allowed by law, the Director is authorized to negotiate and execute a contract for unlawful detainer defense services provided under this Section 22.206.195 with an appropriate attorney organization that:

1. Has experience providing legal representation for renters advocating for their legal rights;
2. Has at least one location near the courtroom where eviction proceedings are heard, in the King County courthouse; and
3. Has the ability to provide legal service in languages commonly spoken in Seattle or has access to all necessary language translation services.

D. The Seattle Department of Construction and Inspections shall educate renters of their right to counsel free of charge, including materials made available in languages commonly spoken by Seattle residents. Owners must provide notice to the tenant of their right to counsel in any notice required by subsection 22.206.160.C, subject to the Department's rulemaking. The Department shall adopt a rule or rules to enforce this subsection 22.206.195.D. Failure to include the required language on any notice issued pursuant to subsection 22.206.160.C shall be a defense to eviction.

E. Nothing in this Section 22.206.195 shall be construed to require persons served with an unlawful detainer suit to accept counsel provided by the City. The City is not responsible for paying any legal fees associated with representation other than that authorized by the contracts described in subsection 22.206.195.C.

F. Nothing in this Section 22.206.195 is intended to require representation by an attorney that would violate the Washington State Court Rules of Professional Conduct.

G. The attorney organization with whom the Director contracts shall report the number of cases and estimated attorney hours spent on court proceedings beyond or in lieu of representation at a show cause hearing or first appearance. The Council intends to consider this information in determining whether to amend this Section 22.206.195.

Section 2. The City shall contract for attorneys for the purposes of the legal representation provided under Seattle Municipal Code Section 22.206.195 and shall allocate sufficient funding to provide such representation for any eligible person.

Section 3. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if

not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2021, and signed by me in open session in authentication of its passage this ____ day of _____, 2021.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

Monica Martinez Simmons, City Clerk

(Seal)