

Fiscal Note

2021-2022 Legislative Session

HF450 - 0 - Right to Counsel in Public Housing; Eviction

Chief Author: **Ruth Richardson**
 Committee: **Housing Finance and Policy**
 Date Completed: **2/8/2021 1:01:48 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 2/8/2021 1:01:48 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

HF450-0 creates a new law providing defendants with the right to court-appointed counsel in certain public housing eviction actions. This bill provides court-appointed counsel to defendants who are facing eviction when there is an allegation of a breach of lease under Minn. Stat. § 504B.171 or § 504B.285 and the defendant is financially unable to obtain counsel. This bill establishes qualification standards for court-appointed counsel. This bill further establishes the chief judge of the judicial district to consult with public housing attorneys, legal aid attorneys, and members of the private bar in the district on an annual basis to determine the compensation rate for court-appointed attorney fees and costs, which shall not exceed \$5,000, exclusive of reimbursement for expenses reasonably incurred. This bill provides the chief judge with discretion to award costs over the \$5,000 limit to provide fair compensation for services of an unusual character or duration.

Assumptions

This bill requires the court to appoint qualified attorneys who meet certain standards to represent defendants in certain public housing eviction actions when the defendant is unable to pay for counsel. It is assumed the standard for the court in determining eligibility for court-appointed counsel would be the same standard used when appointing counsel under Minn. Stat. § 611.17. It is assumed the costs for court-appointed counsel is a county expense.

For FY18, there were 17,480 eviction case filings, in FY19, there were 17,617, and in FY20 there were 13,678 eviction case filings. The Minnesota Judicial Case Management System (MNCIS) does not maintain data on eviction case filings involving public housing entities nor identifies eviction case filings based on statutory claims. Of the number of case filings in FY18, 1,629 cases were expunged; in FY19 1,915 cases were expunged, and in FY20 1,521 cases were expunged, for an average of approximately 10% of eviction cases being expunged each year. It is unknown what percentage of these eviction cases may have included the statutory claims under Minn. Stat. § 504B.171 or § 504B.285, or if defendants may have qualified for court-appointed counsel. It is assumed this bill will require the court to appoint counsel in a limited number of eviction cases, but it is not possible to predict the number of cases with any certainty.

This bill further requires the chief judge of each judicial district to determine a rate of compensation to be paid for court-appointed counsel. It is assumed the chief judge of each district will work with public housing attorneys, legal aid attorneys, and members of the private bar to develop a compensation rate for court-appointed counsel that is commensurate with current rates charged by attorneys in eviction cases.

This bill requires the eviction complaint to contain a notice that a defendant has the right to court-appointed counsel if unable to afford counsel. The State Court Administrator’s Office publishes eviction court forms. It is assumed this bill will require changes to court forms published by the State Court Administrator’s Office.

Expenditure and/or Revenue Formula

It is assumed this bill may impact judicial work time. It is not possible to estimate the exact impact or the number of eviction case filings that will require the court to appoint counsel.

The time needed to make changes to court forms will be absorbed by the State Court Administrator's Office.

Long-Term Fiscal Considerations

Local Fiscal Impact

There will be a cost to counties to provide court appointed counsel in these cases. It is not possible to estimate the exact impact or the number of eviction case filings that will require the court to appoint counsel.

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Janet Marshall

Phone: 651-297-7579

Date: 2/8/2021 12:05:41 PM

Email: Janet.marshall@courts.state.mn.us