

**Washington State Judicial Branch
2023-25 Biennial Budget
Continue Pre-Right to Counsel Eviction Defense Services**

Agency: Office of Civil Legal Aid

Decision Package Code/Title: AE – Pre-RTC Eviction Defense Svs

Agency Recommendation Summary Text:

Funding is requested to (a) continue and carry forward capacity to provide eviction defense services for indigent tenants threatened with eviction but who are not eligible for appointed counsel because a court action has not yet been commenced, and (b) support non-RTC eviction defense information, advice, and referral service demand caused by mandatory notice in the 14-day notice required by RCW 59.18.057(3). (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$2,408,000	\$2,579,200	\$4,987,200	\$2,682,368	\$2,789,663	\$5,472,031
Total Expenditures						
	\$2,408,000	\$2,579,200	\$4,987,200	\$2,682,368	\$2,789,663	\$5,472,031

Package Description:

Funding requested is designed to continue dedicated indigent defense services and facilitate early resolution of disputes for tenants against whom unlawful detainer actions have not yet been filed and who do not yet have a right to appointed counsel (RTC) under RCW 59.18.640.

Under RCW 59.18.640, attorneys funded through the RTC program are exclusively dedicated to representing tenants against whom unlawful detainer actions have already been commenced. RTC attorneys cannot help tenants with threats to their housing stability that precede a formal court action. These threats include, among other things, tenants illegally locked out of their units, tenants being threatened with physical harm, tenants being wrongfully coerced into “self-evicting”, and tenants participating in the Eviction Resolution Pilot Program (ERPP) to resolve disputes relating to non-payment of rent. Further, many tenants – especially those who are LEP, have disabilities including literacy and cognitive disabilities, immigrants, and others who have experienced structural barriers to accessing legal aid – do not know of, understand, and consequently do not assert their legal rights when threatened with eviction.

Recognizing the need to ensure a continuum of civil legal information, advice, and representation, the Legislature provided \$2M in funding for pre-RTC civil legal aid services to indigent tenants threatened with eviction in the FY 2023 operating budget. Sec. 116(10), Ch. 297, Laws of 2022. Following a competitive process, the Office of Civil Legal Aid (OCLA) executed contracts with 14 legal aid programs with experience and expertise in serving indigent tenants. These programs provide information, outreach, self-help materials, advice, and representation for tenants, with a focus on tenants who experience barriers that limit their ability to know, understand, and enforce their rights under Title 59.18 RCW and who are members of communities that have experienced disproportionate rates of formal and informal eviction.

In FY 2021, the Legislature updated the mandatory 14-day notice required by RCW 59.18.057(3) that must be sent to tenants in advance of filing an unlawful detainer action. This notice requires landlords to provide tenants with the number to the Eviction Defense Screening Line (EDSL). The EDSL was established primarily to provide screening and referral for tenants against whom unlawful detainer actions have been commenced and who may be eligible for appointed counsel. The notice provision reads in relevant part:

State law provides you the right to legal representation and the court may be able to appoint a lawyer to represent you without cost to you if you are a qualifying low-income renter. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the *Eviction Defense Screening Line at 855-657-8387 or apply online at <https://nwjustice.org/apply-online>*. For additional resources, call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at <http://www.washingtonlawhelp.org>. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at <https://www.resolutionwa.org>.

(Emphasis and highlighting supplied).

To date, more than 50% of calls to the EDSL come from tenants who do not yet qualify for appointed counsel. They are calling because they are in distress and feel threatened with imminent eviction. Because the principal purpose of the EDSL is to screen and refer tenants for appointed counsel under RCW 59.18.640, OCLA cannot use RTC appropriations to support the non-RTC services provided through the EDSL. To ensure that these tenants are not turned away and further discouraged from seeking legal help, OCLA provided a one-time allocation of \$400,000 in COVID proviso funding to allow EDSL to serve non-RTC tenants who call the EDSL in FY 2023. This is an unsustainable investment, as COVID-related legal aid funding for FY 2024-25 drops from \$5M to \$3M per year. This capacity should be folded into the pre-RTC program and appropriation.

Continued tenant-focused legal assistance (short of a right to counsel) is needed to bridge the gap in dedicated legal help for tenants threatened with eviction. This will: (a) ensure that non-RTC eligible tenants calling the EDSL can continue to be served and are not turned away (rendering them even more vulnerable to eviction), (b) result in greater tenant participation and success in the ERPP process, (c) allow for continued targeting of information, education, and legal assistance to tenants from communities that experience disproportionate rates of pre- and post-unlawful detainer evictions, and (d) continue to facilitate early resolution of landlord-tenant disputes that, in turn, helps reduce the number of unlawful detainer filings. Finally, by helping tenants resolve disputes prior to filing of judicial eviction proceedings, these early intervention efforts reduce the risk that tenants will end up with court records that will substantially impair their abilities to obtain rental housing in the future.

Fully describe and quantify expected impacts on state residents and specific populations served:

This request is focused exclusively on tenants who are threatened with judicial or coerced non-judicial eviction but are not yet eligible for appointed counsel because an unlawful detainer action has not yet been commenced against them. In FY 2023, OCLA funded programs providing pre-RTC services provided assistance to 4,685 individual tenants and engaged in outreach and education efforts that touched more than 250,000 tenants and households (see attached chart).¹ In addition, these programs, among other things, provided extensive community-based legal education on

¹ These efforts included direct mailing of informational postcards, social media contacts, and community education seminars. Not included in this number are households that were reached by targeted radio and other electronic media outlets.

tenant rights under the new landlord-tenant laws, helped tenants prepare for and participate in ERPP conciliations and mediations, and monitored unlawful detainer dockets to ensure that tenants who were not yet determined eligible for appointed counsel were properly notified of their potential right to the same and how to seek appointment.

Funding provided pursuant to this decision package will allow these services to continue through the FY 2023-25 biennium and beyond.

Explain what alternatives were explored by the agency and why they were rejected as solutions:

If these critical pre-RTC dedicated civil legal aid investments are not maintained, such services will terminate effective June 30, 2023. There are no alternative sources of funding.

What are the consequences of not funding this request?

Pre-RTC civil legal aid education, information, advice, self-help, and representational services will terminate June 30, 2023, leaving thousands of tenants vulnerable to wrongful eviction prior to commencement of an unlawful detainer proceeding against them and before any right to appointed counsel attaches. It will also likely drive increases in annual unlawful detainer filings because tenant disputes with their landlords will not have been resolved in a manner to make such filings unnecessary.

Is this an expansion or alteration of a current program or service?

This proposal is designed to (a) continue existing levels of pre-RTC services supported with the one-time \$2M appropriation in the FY 2023 supplemental operating budget; and (b) provide a dedicated source of pre-RTC funding to enable the EDSL to continue providing information, advice, and referrals (to OCLA-funded programs that provide pre-RTC services) for tenants not yet eligible for appointed counsel under RCW 59.18.640. A small adjustment (4%/yr.) is made to the baseline FY 2023 appropriation level and each year thereafter.

Decision Package expenditure, FTE and revenue assumptions:

Expenditures by Object	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
C Personal Service Contracts	2,408,000	2,579,200	2,682,368	2,789,663
Total Objects	2,408,000	2,579,200	2,682,368	2,789,663

How does the package relate to the Judicial Branch principal policy objectives?

This package supports the following judicial branch objectives:

- Fair and Effective Administration of Justice
- Accessibility
- Access to Necessary Representation

Are there impacts to other governmental entities?

No anticipated impacts. This package is strongly supported by the statewide access to justice community (including courts across the state), the low-income housing advocacy community, and many other communities representing BIPOC, immigrant, individuals with disabilities, LEP, rural, and other communities that disproportionately experience high rates of legal and illegal eviction. This package may not be supported by some in the rental housing industry.

Stakeholder response:

Landlords are impacted to the extent that tenants will be informed of their legal rights, provided legal assistance, and defended against improper efforts to evict them.

Are there legal or administrative mandates that require this package to be funded?

Not applicable

Does current law need to be changed to successfully implement this package?

No

Are there impacts to state facilities?

No

Are there other supporting materials that strengthen the case for this request?

No

Are there information technology impacts?

No

Agency Contacts:

Jim Bamberger, OCLA Director
360-485-1530
jim.bamberger@ocla.wa.gov

Philippe Knab
360-485-1533
Philippe.knab@ocla.wa.gov