



Legislation Text

File #: O-418-21, **Version:** 1

Council Members Komives and Gadus

Enacting Chapter 1768 of the Toledo Municipal Code, Tenants' Right to Counsel in Eviction Proceedings; authorizing the appropriation and expenditure of \$250,000 from the unappropriated balance of the General Fund; authorizing the Mayor to enter into an agreement with Legal Aid of Western Ohio; and declaring an emergency.

WHEREAS, housing is a human right and the access to safe, secure and accessible housing is essential to achieving equal access to all other fundamental needs; and

WHEREAS, evictions create significant costs for state and local government related to shelter funding, education funding, health care provided in hospitals instead of community-based providers, transportation costs for homeless youth, and foster care; and

WHEREAS, studies have shown that many tenants have defenses to the eviction that they are not able to assert (either at all or successfully) without assistance of counsel; and

WHEREAS, evictions have significant, well-documented, and long-lasting effects on the lives of individuals and families, including poorer physical and mental health, increased risk of homelessness, increased risk of employment loss, loss of personal property, damage to credit standing, and relocation into sub-standard housing; and

WHEREAS, evictions and the subsequent housing instability and displacement damage the lives of children by negatively impacting their mental and physical health, decreasing school attendance rates, impeding academic performance, increasing instances of school discipline, and increasing the likelihood of out of home placement; and

WHEREAS, providing a right to counsel to tenants in eviction cases is a proven means of preventing the disruptive displacement of families and the resulting social, economic and public health costs of such displacement; and

WHEREAS, Toledo City Council believes that interests in civil cases can be significant and there exists an inherent unfairness if a case goes forward with one side represented and the other side unrepresented; and

WHEREAS, evictions exacerbate the continuing public health crisis posed by COVID-19 by forcing many into close quarters with others in a "doubling up" scenario, or in crowded homeless shelters, and whereas evictions have been proven to increase COVID-19 infection and mortality rates; and

WHEREAS, it is the policy of the City of Toledo that tenants facing an eviction from the homes shall have a right to legal representation in eviction and related proceedings, and the City of Toledo shall provide for that representation to tenants to assist in the fair administration of justice; NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 1768 is hereby enacted as follows:

Chapter 1768 Tenants' Right to Counsel in Eviction Proceedings

1768.01	Definitions
1768.02	Legal Representation in Toledo Municipal Court
1768.03	Severability

1768.01 Definitions

- (a) **Brief Legal Assistance.** Individualized legal assistance provided in a single consultation by a Designated Organization to a Covered Individual in connection with a Covered Proceeding.
- (b) **Covered Individual.** Any person who is entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others, including any tenant in a building operated by Lucas Metropolitan Housing, whose annual gross income does not exceed 200% of the federal poverty guidelines as established and updated periodically by the United States Department of Health and Human Services (42 U.S.C. § 9902(2)).
- (c) **Covered Proceeding.** Any proceeding in the Toledo Municipal Court to evict, eject, or terminate the tenancy of a covered individual, or any appeal of such a proceeding.
- (d) **Designated Community Group.** A nonprofit organization or association that has the capacity to conduct tenant outreach, engagement, education, and information provision.
- (e) **Designated Organization.** A nonprofit organization or association that has the capacity to provide legal services per the standards set by the American Bar Association Standards for the Provision of Civil Legal Aid to covered individuals facing eviction and is designated by the City pursuant to this ordinance.
- (f) **Full Legal Representation.** Ongoing legal representation provided by a designated organization to a Covered Individual and all legal advice, advocacy, and assistance associated with such representation. Such representation includes, but is not limited to, the filing of a notice of appearance on behalf of the covered individual in a covered proceeding.
- (g) **Legal Services.** Any legal representation provided to a covered individual, including brief legal assistance and full legal representation.

1768.02 Legal Representation in Toledo Municipal Court

- (a) All Covered Individuals will receive Legal Services from the Designated Organization in a Covered Proceeding as soon as possible after the initiation of the proceeding and no later than at the time of the individual's second scheduled appearance in the proceeding. The Designated Organization must seek to provide Full Legal Representation unless the individual is ineligible for the organization's services, there is a conflict of interest, or other circumstances make it infeasible to provide Full Legal

Representation.

- (b) The Designated Organization will work with other organizations or associations, including Designated Community Groups, to advertise in the media and hire (a) community engagement specialist(s), and to engage and educate tenants of their rights and available resources.
- (c) Any legal representation set forth in this section will be effective only at such time as appropriations are available to fund the representation. If the projected need for legal representation to Covered Individuals exceeds the available funds, the provision of legal services may be prioritized by reasonable standards as decided by the Designated Organization.
- (d) The Designated Organization will promulgate such regulations as necessary to implement a legal representation program pursuant to this section and the funding limits for the program.
- (e) Any legal services performed by the Designated Organization pursuant to this section will not supplant, replace, or satisfy any obligations or responsibilities of such Designated Organization pursuant to any other program agreement or contract.
- (f) On January 31 of each year, the Designated Organization will submit a written report to Toledo City Council detailing the number of covered individuals served, the extent of legal services performed, metrics evaluating outcomes, as well as a summary of the engagement and education of tenants.
- (g) Legal Aid of Western Ohio, Inc. shall be named as the Designated Organization to assign itself and/or Advocates for Basic Legal Equality, Inc. to provide legal services to Covered Individuals, or to engage another organization or other entity to provide legal representation, engagement, and education.
- (h) This law takes effect immediately upon receipt of funding from the City by Legal Aid of Western Ohio, Inc.
- (i) This law shall be phased over a 5-year period with a potential for extension.

1768.03 Severability

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. Toledo City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 2. That the appropriation of \$250,000 is authorized from the unappropriated balance of the General Fund to Account Code 1001-89800-5129003TENRIG for the purposes authorized in Section 1.

SECTION 3. That an expenditure of \$250,000 is authorized from Account Code 1001-89800-5129003TENRIG for the purposes authorized in Section 1.

SECTION 4. That the Mayor is authorized to enter into agreements for the purpose identified in Section 1 and upon such other terms and conditions acceptable to the Director of Law.

SECTION 5. That the Finance Director is authorized to draw warrant or warrants against the above-mentioned Account Codes in an amount not to exceed \$250,000 in payment of the above authorized obligations upon presentation of the proper voucher or vouchers.

SECTION 6. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 7. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety, and property and for the further reason that it is necessary to effectively and timely implement a program for legal representation in eviction proceedings in light of the expiration of the CDC eviction moratorium.

Vote on emergency clause: yeas 12, nays 0.

Adopted: September 15, 2021, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

September 15, 2021
Wade Kapszukiewicz
Mayor