

MILWAUKEE COUNTY

With eviction moratorium ending soon, Milwaukee County officials consider Right to Counsel Initiative

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Published 9:00 a.m. CT Jun. 15, 2021 | Updated 5:10 p.m. CT Jun. 15, 2021

With the expiration of a moratorium on evictions looming, Milwaukee County officials are moving to ensure tenants facing court action have a right to legal counsel.

The Centers for Disease Control and Prevention issued a moratorium on evictions beginning Sept. 4 to prevent the spread of COVID-19, as long as tenants signed a declaration ensuring they meet certain criteria. That moratorium ends June 30, leaving some officials worried the number of evictions will increase drastically.

“I am terrified,” Milwaukee County Supervisor Ryan Clancy said about the moratorium coming to a close.

A resolution Clancy authored earlier this year that would create a “Right to Counsel” program in Milwaukee County providing an attorney at no cost to any Milwaukee County resident facing eviction will appear in front of the Milwaukee County Finance Committee on June 17. The full County Board would take it up June 24.

The resolution allocates \$916,576 from Milwaukee County’s federal COVID funding to support this program. Additionally, United Way of Greater Milwaukee Milwaukee and Waukesha County has pledged \$1.5 million over the next three to five years to support this program.

Few evicted tenants have legal help

Prior to the pandemic, Milwaukee experienced 14,000 evictions annually, and only 3% of tenants had legal representation during an eviction, according to Matthew Desmond’s 2016 book “Evicted: Poverty and Profit in the American City.”

Most evictions occur when a tenant is unable to pay rent. In Milwaukee, 53.4% of households that rent homes are considered “rent-burdened” — meaning that they spend more than 30% of their income on rent. The figure is significant because 60% of Milwaukee residents rent rather than own homes.

More: With eviction moratorium about to end, Milwaukee group focuses on long-term housing needs

The issue of rent-burdened households disproportionately affects minority populations in the city. Twenty-seven percent of Black households and 37.5% of Hispanic/Latino households own their own home, compared to 55.8% of white households. And in Milwaukee, most evictions are filed in majority-Black neighborhoods.

When a tenant has legal representation, 90% of eviction cases are delayed or dismissed.

Legal counsel for tenants facing evictions is essential to stabilizing communities, said Raphael Ramos, an attorney with Legal Action of Wisconsin and Coordinator for Legal Action's Eviction Defense Project.

“Tenants facing eviction are in a very particular circumstance where there's a very significant power imbalance between them and the party that they're working against,” Ramos said. “Laws can be difficult for a person to understand either on their face, or just intuitively, because of the way that they're structured and set up. So people who are going through eviction are really in a difficult spot.”

Ramos said many landlords benefit from access to trained attorneys.

“Given the stakes, I can't think of why it wouldn't be fair for someone who's going through a trauma to have assistance from someone who can provide honest and accurate advice in representation,” Ramos said.

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For many Milwaukeeans, the inability to pay rent may be only one expense away.

“You'd be surprised how often a \$500 car repair or something... can really send someone down the spiral of housing insecurity,” said Jeremy Simon, grants and sponsorships manager at United Way of Greater Milwaukee and Waukesha County.

United Way's \$1.5 million contribution to the Right to Counsel program will further the organization's goals to address housing insecurity, Simon said.

"For us, it makes a lot of sense to make a strong investment in a method to ensure that we can, where possible, prevent eviction from taking place and minimize disruption to families and landlords as well," Simon said.

Landlords say mediation is best remedy

Heiner Giese, attorney for the Apartment Association of Southeast Wisconsin, takes issue with the Right to Counsel resolution from a landlord's perspective.

"We do see some problems with it," Giese said. "Probably first and foremost is the extent that the resolution requires the expenditure of county money that currently is totally unnecessary because of the many millions of dollars in federal rental aid."

More: Facing eviction? Here are programs in Wisconsin that can help you stay in your home.

Giese said he is in favor of money spent on mediation rather than attorneys for every tenant.

"I think there's this misconception out there that it's a win-lose thing," Giese said. "You know, the landlords have lawyers and they win their cases because the poor tenant doesn't have a lawyer. But no payment of rent is something that there really is no defense to. It's going to get resolved one way or the other... and we certainly would like to have that happen before going to court."

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Tristan Pettit, board member of the Apartment Association of Southeast Wisconsin, also believes that money should be put toward mediation before eviction is filed.

"At that point, I think there's enough adversity, sometimes in the relationship between the landlord and tenant, that things have gone too far," Pettit said. "What we think is been very successful, and what we're promoting is mediation."

Colleen Foley, executive director of the Legal Aid Society of Milwaukee, said mediation can be successful but the need for legal representation is great.

“In some pre-suit resolutions mediation is respected and welcome,” Foley said. “But when we're at a point, particularly pre-pandemic, where we're at nearly 14,000 evictions a year and 3% of tenants are represented, then that's a flawed system. And that's not fair or equitable. And that is bogging down the system. So I view this as something that will enable the system to work in a more fair and efficient way.”

Another concern of landlords is potential delays due to tenants having lawyers.

“As a landlord, if the tenant has a lawyer, the case is going to get delayed,” Giese said. “It's going to take us longer to get through court.”

Simon, however, believes that tenants having a lawyer could actually streamline the process.

“When you have two experts who understand the law, understand the available remedies, what the rules look like, and can further explore, they can expedite the process because they know what they're doing.”

Proponents of this program point to Cleveland as a model of success when it implemented a Right to Counsel Program in July 2020.

In the first six months, 93% of clients facing eviction were able to avoid immediate displacement because of legal counsel.

While eviction numbers have been relatively low during the CDC's moratorium, Foley believes they will increase after June 30.

Pettit disagrees, saying many landlords will prefer mediation in order to retrieve money lost during the moratorium.

“No, I don't think there will be a spike (in evictions),” Pettit said. “I think this moratorium, one positive thing that it has done is it brought housing providers together, along with tenant advocates. And in other cities, you see them butting heads or being the enemies. In our city in the southeastern area, we're actually working together.”

Regardless, Clancy said many of his constituents are concerned about the moratorium ending.

“I'm hearing every week about folks who were saying their landlords, in some cases, are kind of champing at the bit to evict them and get them out,” Clancy said.