

## Section 1 Header

2023 SESSION

23-0290.1

04/10

HOUSE BILL            *[bill number]*

AN ACT                requiring that attorneys be appointed to represent indigent tenants during residential eviction proceedings.

SPONSORS:           [sponsors]

COMMITTEE:         [committee]

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### ANALYSIS

This bill provides that an indigent tenant shall have the right to counsel at an eviction proceeding.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~in brackets and struckthrough~~.  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT                    requiring that attorneys be appointed to represent indigent tenants during residential eviction proceedings.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 New Paragraph; Actions Against Tenants; Eviction Notice and Right to Counsel for Indigent  
2 Tenants. Amend RSA 540:3 by inserting after paragraph III the following new paragraph:

3            III-a. The eviction notice shall clearly state that an indigent tenant shall have the right to  
4 counsel for the eviction proceeding and include instructions on the process for obtaining counsel. If  
5 the tenant is able to demonstrate that he or she is indigent and requests counsel, the court shall  
6 determine if the tenant is indigent and if so, shall appoint counsel for the tenant. A tenant whose  
7 annual gross household income is less than or equal to 200 percent of the federal poverty guidelines  
8 as updated annually in the Federal Register by the United States Department of Health and Human  
9 Services under 42 U.S.C. section 9902(2) shall be deemed indigent and shall be appointed counsel.  
10 The judicial council shall pay the cost of such appointment, including counsel and investigative,  
11 experts, or other services and expenses necessary to provide adequate representation, from funds  
12 appropriated for indigent defense pursuant to RSA 604-A.

13            2 Actions Against Tenants; Writ of Summons. Amend RSA 540:13, III to read as follows:

14            III. The writ of summons and the notice provided in paragraph II shall be returnable [7] 21  
15 days from the date of service of the writ by the sheriff, ***but in no case before a tenant who is***  
16 ***eligible for and requests counsel has been appointed counsel.*** The writ of summons shall  
17 provide an opportunity for the landlord, at the landlord's option, to make a claim for an award of  
18 unpaid rent. If the landlord elects to make a claim for unpaid rent, the court shall consider any  
19 defense, claim, or counterclaim by the tenant which offsets or reduces the amount owed to the  
20 plaintiff. If the court finds that the landlord is entitled to possession on the ground of nonpayment of  
21 rent, it shall also award the landlord a money judgment. If the court determines that the amount  
22 owed by the landlord to the tenant, as a result of set-off or counterclaim exceeds or equals the  
23 amount of rent and other lawful charges owed by the tenant to the landlord, judgment in the  
24 possessory action shall be granted in favor of the tenant. If the court finds that the tenant's  
25 counterclaim exceeds the amount of the nonpayment, a money judgment shall issue in favor of the  
26 tenant. Any decision rendered by the court related to a money judgment, shall be limited to a  
27 maximum of \$1,500 and shall not preclude either party from making a subsequent claim in a court of  
28 competent jurisdiction to recover any additional amounts not covered by the \$1,500 judgment.

29            3 Effective Date. This act shall take effect 60 days after its passage.