


A Descriptive Analysis of Tenant Right to Counsel Law and Praxis 2017–2024

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ABSTRACT

This article provides the first comprehensive description of state and local tenant right to counsel (RTC) policies. From July 2017 through June 2024, five states, 17 cities, and one county passed legislation to formally create a right to legal counsel for tenants in eviction proceedings. These policies contain heterogeneous provisions, including their intended purposes, design and administration requirements, eligibility criteria, and when in the eviction process the right is triggered. This study describes laws as adopted in legislation through policy surveillance and legal mapping methods and examines how policies are executed on the ground through qualitative methods that capture the perspective of multiple stakeholders. The pairing of policy surveillance and legal mapping techniques with qualitative interviews demonstrates where real-world implementation both meets and diverges from legislative requirements and identifies barriers that prevent full implementation of the right to counsel, as well as its systemic benefits. In light of the dearth of national information on implementation of RTC programs, the descriptive, qualitative, and analytic framework detailed herein provides researchers, policymakers, and practitioners with instructive insights for evaluating, refining, and advancing RTC policies.

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Introduction

Each year, approximately 7.6 million American renters—40 percent (2.9 million) of whom are children—risk losing their homes through eviction (Graetz et al., 2023). Eviction is a damaging event associated with negative health outcomes, reduced life expectancy, employment and educational disruption, and future housing precarity, among other harms across the life course (Benfer, 2024; Collinson, Humphries, Mader, et al., 2024; Hatch & Yun, 2021; Smith et al., 2024). The U.S. eviction system is characterized by complex and heterogeneous laws across jurisdictions, and a substantial power imbalance between parties in favor of plaintiff landlords (Nelson et al., 2021; Sabbeth, 2022). While landlords frequently have legal representation, most tenants facing eviction are not

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represented by a lawyer (National Coalition for the Civil Right to Counsel, 2024). Self-represented tenants are typically unaware of their rights and unable to raise defenses or navigate the eviction system, putting them at a severe disadvantage (Benfer, 2024).

During the COVID-19 pandemic, eviction was widely linked to public health (Benfer et al., 2021; Leifheit et al., 2021), and policymakers increasingly adopted a range of eviction prevention measures, such as emergency rental assistance (ERA), eviction diversion, and the civil right to counsel (RTC) (Michener, 2022a). This dovetailed with a movement by activists and policymakers over the last decade to address eviction through the expansion of RTC for tenants (Michener, 2020). By the end of June 2024, RTC had been adopted in 23 jurisdictions.

There has been little research about the substance and implementation of RTC, however, and none that assesses differences between programs, leaving important policy-relevant questions unanswered. How does RTC vary across the country? Why did jurisdictions adopt these policies? How did they implement them in practice? What challenges affected implementation efforts? How did these policies unfold in the courts? What systemic, community-level benefits might RTC programs generate that go beyond the individual tenant or case outcomes? As a growing number of jurisdictions seek to adopt and implement RTC policies and programs—and as researchers seek to analyze the effects of such programs—it is critical to thoroughly understand the content, variations, implementation, and challenges of these policies.

This article provides a framework that describes RTC policies enacted from July 2017 through June 2024. We present results from a mixed-methods, descriptive analysis employing longitudinal policy surveillance, legal mapping, and qualitative interviews to describe laws as adopted in legislation, executed in practice, and understood on the ground by parties engaged in program implementation. Making use of a new database of RTC legislation that we have publicly released (Benfer, 2025), we identify multiple dimensions of RTC legislation that vary widely across jurisdictions. We also go beyond the law as written, capturing the perspectives of multiple local actors involved in designing and implementing RTC to document where the program involved discretion and real-time decision-making. Finally, we describe barriers that prevented the full adoption of RTC. This framework can provide researchers with key insights on RTC and alert policymakers to potential obstacles, as well as best practices for adoption and implementation.

Background

Every year, landlords file an average of 3.6 million eviction cases across the United States (Gromis et al., 2022). Eviction disproportionately affects Black households, women, and families with young children (Graetz et al., 2023; Hepburn et al., 2020).¹ These cases are unevenly distributed across the country, but affect urban, suburban, and rural communities alike (Gershenson & Desmond, 2024; Gromis et al., 2022; Hepburn et al., 2023). In most cases, the cause of action is alleged nonpayment of rent (Deluca & Rosen, 2022).

The court-ordered eviction process is a summary judgment proceeding designed to be fast and high volume, which furthers inequities between parties (Benfer, 2024; Sabbeth, 2022; Scherer, 2022). Across states, confusing and inconsistent rules, along with shadow procedures and hallway settlements, create power imbalances between landlords and tenants (Benfer, 2024; Sabbeth, 2022; Summers, 2023). These disparities are compounded by substantial gaps in legal representation rates between landlords and tenants. Across studies, 83 percent of landlords have legal counsel in eviction proceedings, compared to only 4 percent of tenants (National Coalition for the Civil Right to Counsel, 2024). Tenants are usually ill-equipped to navigate complex housing laws and rarely prevail without legal representation (Sabbeth, 2018, 2022; Scherer, 2022; Summers, 2023).

Eviction is a traumatic event associated with myriad negative consequences (Benfer, 2024; Desmond & Kimbro, 2015; Himmelstein & Desmond, 2021; Smith et al., 2024; Schwartz et al., 2024). Tenants facing eviction—even those whose cases do not result in a completed eviction—experience serious health problems, up to and including increased risk of death (Benfer et al.,

2021; Graetz et al., 2024; Hatch & Yun, 2021). Eviction may be particularly harmful to children, with previous research detailing associations between eviction judgments and developmental delays, educational disruption, and increased exposure to environmental hazards, crime, and violence (Benfer et al., 2021; Desmond et al., 2015; Gomory & Desmond, 2023). Eviction orders increase the likelihood of reduced earnings and homelessness, and often lead families to double up with friends or neighbors (Collinson, Humphries, Mader, et al., 2024; Desmond et al., 2015). Because landlords consider eviction history and credit score, which can be affected by a judgment, when screening potential tenants, attempts to find new housing after an eviction case—no matter the outcome—are often limited to overpriced, low-quality apartments in resource-deprived neighborhoods (Collyer & Bushman-Copp, 2019; Desmond & Shollenberger, 2015; Rosen et al., 2021; So, 2023).

Development and Expansion of RTC

The first tenant RTC law was passed in New York City on July 20, 2017. By the outset of the COVID-19 pandemic in March 2020, five additional cities had passed an RTC law. During the COVID-19 pandemic, tenant advocacy efforts and awareness of the scale and impact of eviction increased dramatically. In response, state and local policymakers introduced a record number of eviction prevention bills, including measures to increase filing fees and notice requirements and set “just cause” eviction standards (Michener, 2022a; Rickard & Khwaja, 2021). In addition, courts adjusted their procedures (sometimes temporarily), requiring landlords to submit affidavits of compliance with local and federal law and adopting eviction diversion programs (Benfer, 2024; Benfer et al., 2023; National Center for State Courts, 2024; *Readout of the White House Eviction Prevention Summit*, 2021). During and since this period of heightened policy activity, tenant RTC is among the most common legislative interventions.² By June 30, 2024, five states, 17 cities, and one county had legislatively adopted RTC, and over 80 additional cities and counties and 11 states were actively considering or piloting such programs.³ Only one RTC law (Westchester County, NY) included a sunset provision four years after enactment.

RTC laws typically receive strong support at the time of passage. For example, during the consideration of Maryland’s RTC bill, only one out of 84 witnesses presented unfavorable testimony (arguing that RTC would merely extend the time tenants could stay in the unit).⁴ At the state level, RTC has been adopted with clear support: in Maryland, RTC passed the House 94–42⁵ and the Senate 30–15; in Washington, RTC passed the House 72–26 and the Senate 27–22⁶; and in Connecticut, RTC passed the House 105–39 and the Senate 22–13.⁷ Despite the support in passage and the growing adoption of the policy, as well as increased development of outcomes data locally, no research to date has detailed the specific requirements of these programs or described heterogeneity between them (though see Been et al. (2018) for a detailed description of the roll-out of RTC in New York City).

In the RTC model, eligible tenants receive free legal representation in eviction lawsuits and, in some jurisdictions, in proceedings that may lead to eviction (e.g., termination of rental subsidies) or for affirmative cases (e.g., enforcing the warranty of habitability). Tenant RTC programs are often understood as part of a larger push for civil right to counsel, access to justice, and legal representation in civil court cases, such as debt, family law, and employment issues, among others (American Bar Association, 2006). This movement recognizes the significance of civil court proceedings in the lives and well-being of Americans, particularly those who are low-income or historically marginalized. Most Americans experience at least one civil legal problem annually that typically involves necessities such as health, housing, employment, or family matters (Sandefur, 2019). While these are all justice problems, there are differing perspectives on whether all represent an unmet legal need that requires an attorney (Pollock & Greco, 2012; Sandefur, 2019). However, for those that do, without a guarantee of legal representation, individuals’ rights are often poorly protected, and the consequences severe. This is especially the case in eviction proceedings.

Existing Empirical Evidence on Legal Representation and RTC

Generally, studies in places without RTC programs that compare court outcomes for tenants with and without legal representation find that defendants with legal representation fare better than those without (Engler, 2010; Grundman & Kruger, 2018; Howell et al., 2021). Much of this existing research is descriptive in nature and does not account for selection into representation (i.e., that the characteristics of defendants or cases may affect both the likelihood of having a lawyer and the odds of prevailing in court). Still, it suggests that lawyers lead to better outcomes in filed eviction cases (*Stout eviction RTC evaluations and cost-benefit studies*, 2024) and that their involvement changes court practices (Been et al., 2018). Likewise, randomized control studies have largely found better formal court outcomes for defendants who were assigned a lawyer (Caspi & Rafkin, 2023; Greiner et al., 2012, 2013; Seron et al., 2001).

Early evaluation of RTC programs using quasi-experimental methods—all of which offer single-site case studies—finds significant benefits for tenants facing eviction. For example, by comparing RTC neighborhoods to otherwise-similar non-RTC neighborhoods in New York City, researchers have shown improvement in case outcomes over time in treated areas (Cassidy & Currie, 2023; Ellen et al., 2021). Effects extend beyond court outcomes: exposure to RTC during pregnancy is associated with reduced probability of adverse birth outcomes (Leifheit et al., 2024). Nevertheless, existing evidence on legal representation in eviction cases without RTC is limited (Poppe & Rachlinski, 2016). There has also been little research describing the implementation of RTC or effects on court systems (Been et al., 2018), and no research to date on the long-term effects of these programs on housing supply or landlord behavior (though see Collinson, Humphries, Kestelman, et al., 2024).

Data and Methods

This study employed policy surveillance, legal mapping, and qualitative interviews to describe the content of enacted RTC legislation (policy on paper) and how the law was translated into the real world (policy in action). Throughout the study, we consulted with and vetted our research framework, interview protocol, and data analysis and interpretation with expert advisors, who included national and local researchers, stakeholders, and individuals with lived experience.

Policy Surveillance and Legal Mapping

We applied longitudinal policy surveillance, legal mapping, and legal analysis techniques to describe state and local RTC laws in 23 jurisdictions. Longitudinal policy surveillance is a methodology designed to allow identification, description, and analysis of time-varying laws and regulations pertaining to a certain subject—in our case, RTC (Burris et al., 2012, 2016; Chriqui et al., 2011). In practice, these tools required the collection of all legislation and regulations that governed the adoption and implementation of RTC policies between July 2017 and June 2024. A subset of the authors constructed a dynamic dataset consisting of 62 indicators that captured the legislatively prescribed temporal and substantive features of RTC. Indicators included policy justification, dates of significance, funding sources, program administration, eligibility criteria, court processes, reporting, and community engagement requirements, among other variables. The resulting dataset describes the requirements of RTC legislation in five states, 17 cities, and one county (see [Online Appendix B, Variables](#)).

Multiple search stages and validation activities ensured comprehensive data collection and documentation. After an initial interview with the National Coalition for the Civil Right to Counsel (NCCRC) and review of their materials, we generated a list of jurisdictions that adopted RTC legislation. NCCRC supports jurisdictions seeking to pass and effectively implement tenant RTC legislation and is often a first point of contact for advocates and policymakers. NCCRC confirmed

that the jurisdiction list was comprehensive as of June 2024 and reviewed the final dataset. A subset of authors and research assistants archived legislative documents (i.e., bills, amendments, enacted laws and ordinances, testimony, etc.), as well as state and local reporting on RTC implementation. To confirm accurate identification of the enrolled legislation, research assistants conducted Westlaw and LexisNexis searches and, along with a subset of the authors, reviewed legislation and regulations on state and local government websites.

We reviewed all legislative material and developed a dataset template, formalizing the information collected from the legislation, defining relevant variables, and developing coding schemes. We then independently reviewed legislation and filled in the template to the best of our ability. We validated the data by independently reviewing legal documents related to each variable and confirmed results with local attorneys or government officials. This process was repeated when new jurisdictions were added to the study or RTC approaches were updated through June 2024.

While passage and enrollment dates were recorded by state and local governments, RTC implementation dates were often ambiguous, especially where jurisdictions staggered rollout. We confirmed implementation dates when they were expressly recorded in state and local reports and asked local actors with a formal role in program implementation to estimate the date(s) when essential elements of RTC were accessible to tenants. Where a jurisdiction phased in RTC over time, we captured this staggered rollout by recording unique implementation dates by zip code, city, and/or county. We also published key variables in a publicly available dataset to support future research in this field (Benfer, 2025).

Qualitative Interviews

We draw on two sets of qualitative interviews, 48 in total, to further describe the design and implementation of RTC. First, we conducted 26 interviews with local actors who were centrally involved in directing, overseeing, or supporting the implementation of RTC, including at least one interview in every RTC jurisdiction that had engaged in implementation.⁸ The goal of these interviews was to validate the legislative policy findings described above and to identify how the RTC law was implemented in practice. Interviews were conducted with actors who had a formal role in implementing RTC, including government employees responsible for administering the program, tenant organizers responsible for education and outreach, and representatives from nonprofit or legal aid organizations who received funding to establish RTC programs and provide legal assistance. These interviews did not include parties in the eviction process, such as landlords or tenants, who were not involved in implementation efforts.⁹ All interviews included questions designed to validate data collected through policy surveillance and legal mapping, and allowed participants to include their own thoughts, observations, and impressions that went beyond these questions. All interviewees went beyond law and policy and volunteered rich narratives about the implementation of RTC, including the challenges they experienced, the facilitators of success, and, in some cases, unexpected outcomes related to shifts in the eviction system. We frequently followed up on topics that participants raised, allowing local actors to provide detailed reflections on the development of RTC in their jurisdiction. Interviews lasted an average of 45 minutes. All interviews took place over Zoom and all but four interviews were recorded and transcribed verbatim.

Second, to build on initial findings and further examine RTC policy in practice, we conducted 22 qualitative interviews of local actors in select RTC jurisdictions, including Boulder, CO; Connecticut (statewide); Cleveland, OH; Detroit, MI; Denver, CO and Washington (statewide). These additional interviews were aimed at understanding RTC implementation and followed a semi-structured design: we used an interview guide to ensure key topics were covered but also provided space for participants to share their own experiences. Interviews lasted approximately 60 minutes. All but one interview took place over Zoom and all but one were recorded and transcribed verbatim.

We used a multi-stage process to collectively analyze these interviews. First, we read all transcripts and wrote memos about emerging concepts and themes. Next, we organized initial notes into main categories that captured features of RTC design and implementation, barriers and facilitators of successful RTC implementation, and its integration into the eviction process. A subset of authors reviewed and revised this list of themes based on memos and discussion of interview transcripts. Next, we re-read all transcripts and organized their content under these categories.

Results

Laws as Written and Implemented

RTC programs varied in statutory design and implementation along eight dimensions: passage and implementation dates, justification, administration, eligibility, timing of access, tenant education, evaluation, and funding.

Passage and Implementation Dates

During the study period, five states (WA, CT, MD, MN, NE), 17 cities (Baltimore, MD; Boulder; Cleveland; Denver; Detroit; Jersey City, NJ; Kansas City, MO; Louisville, KY; Minneapolis, MN; Newark, NJ; New Orleans, LA; New York, NY; Philadelphia, PA; San Francisco, CA; Seattle, WA; St. Louis, MO; Toledo, OH), and one county (Westchester County, NY) passed legislation adopting RTC (Figure 1). Of these, the four jurisdictions that had most recently adopted RTC (NE; Westchester County; St. Louis; Jersey City) had yet to implement RTC by the end of June 2024 (Online Appendix C; Table 1).

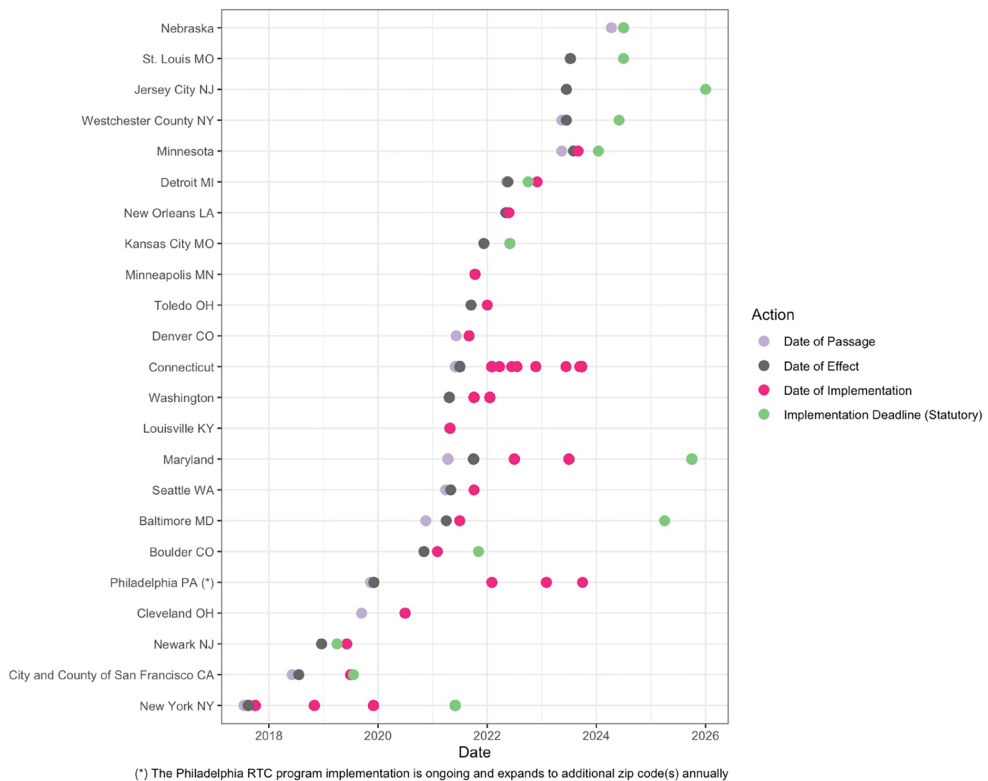


Figure 1. Timeline of right to counsel actions by jurisdiction.

Table 1. Tenant right to counsel dates of adoption and implementation by jurisdiction.

Jurisdiction	Date of passage	Date of effect	Date(s) of implementation
Connecticut	June 3, 2021	July 1, 2021	January 31, 2022–September 25, 2023
Maryland	April 12, 2021	October 1, 2021	July 1, 2022–July 1, 2023
Minnesota	May 15, 2023	August 1, 2023	September 1, 2023
Nebraska	April 11, 2024	July 1, 2024	NA
Washington	April 22, 2021	April 22, 2021	October 4, 2021–January 18, 2022
Baltimore, MD	November 16, 2020	April 2, 2021	July 1, 2021
Boulder, CO	November 3, 2020	November 3, 2020	February 1, 2021
Cleveland, OH	September 13, 2019	June 30, 2020	July 1, 2020
Denver, CO	June 7, 2021	September 1, 2021	September 1, 2021
Detroit, MI	May 10, 2022	May 19, 2022	December 1, 2022
Jersey City, NJ	June 15, 2023	June 15, 2023	NA
Kansas City, MO	December 9, 2021	December 9, 2021	June 1, 2022
Louisville, KY	April 22, 2021	April 28, 2021	April 28, 2021
Minneapolis, MN	October 8, 2021	October 12, 2021	October 12, 2021
Newark, NJ	December 19, 2018	December 19, 2018	June 6, 2019
New Orleans, LA	May 5, 2022	May 6, 2022	May 26, 2022
New York, NY	July 20, 2017	August 15, 2017	October 1, 2017–December 1, 2019
Philadelphia, PA	November 14, 2019	December 4, 2019	February 1, 2022– ongoing
San Francisco, CA	June 5, 2018	July 20, 2018	July 1, 2019
Seattle, WA	March 29, 2021	May 2, 2021	October 4, 2021
St. Louis, MO	July 7, 2023	July 12, 2023	NA
Toledo, OH	September 15, 2021	September 15, 2021	January 1, 2022
Westchester County, NY	May 15, 2023	June 15, 2023	NA

Across all implemented RTC jurisdictions, the first date of implementation (when the RTC program was considered operational by local actors) was, on average, 200.3 days after the date of passage. Implementation took longer in larger jurisdictions and those that phased in the policy by zip code or county (average of 330.4 days, maximum 1,417 days). Local actors reflected on delays in meeting legislative timelines due to budgeting, local politics, and confusion about legal requirements. As one local actor stated,

These ordinance deadlines were not followed by the city or seen as consequential. We had to fight tooth and nail to meet program benchmarks, including getting attorneys contracted and staffed. We really had to do most of what is necessary to implement RTC.

In contrast, where the funding for RTC became available prior to the date of enactment (e.g., Minneapolis) or the RTC program was designated to an existing legal aid program (e.g., Louisville), local actors were able to build on existing infrastructure and offer legal assistance immediately after the law's date of effect.

Justifications: Purpose of RTC

Why did legislators adopt RTC? In 19 of the 23 jurisdictions, lawmakers introduced legislation with prefatory statements that described the circumstances that prompted legislation, what needs policymakers intended to address, and what objectives they sought to achieve (see [Online Appendix A](#). Legal Authorities: Right to Counsel Laws). These statements serve as a bellwether of what factors are timely and important to policymakers and indicate expectations of the law's impact. Once enacted, courts may use these findings and purposes to address ambiguity and determine how to interpret legislation. As [Figure 2](#) demonstrates, justifications for RTC centered on the need to reduce eviction rates, protect public health, address pandemic-related crises, regulate landlords, and much more.

Legislation in 12 jurisdictions cited eviction as a social determinant of poor health (7), a threat to public health (8), or both (3). For example, in 2021, Louisville adopted RTC legislation that stated, “access to safe, stable, and affordable housing is a strongly-correlated social determinant

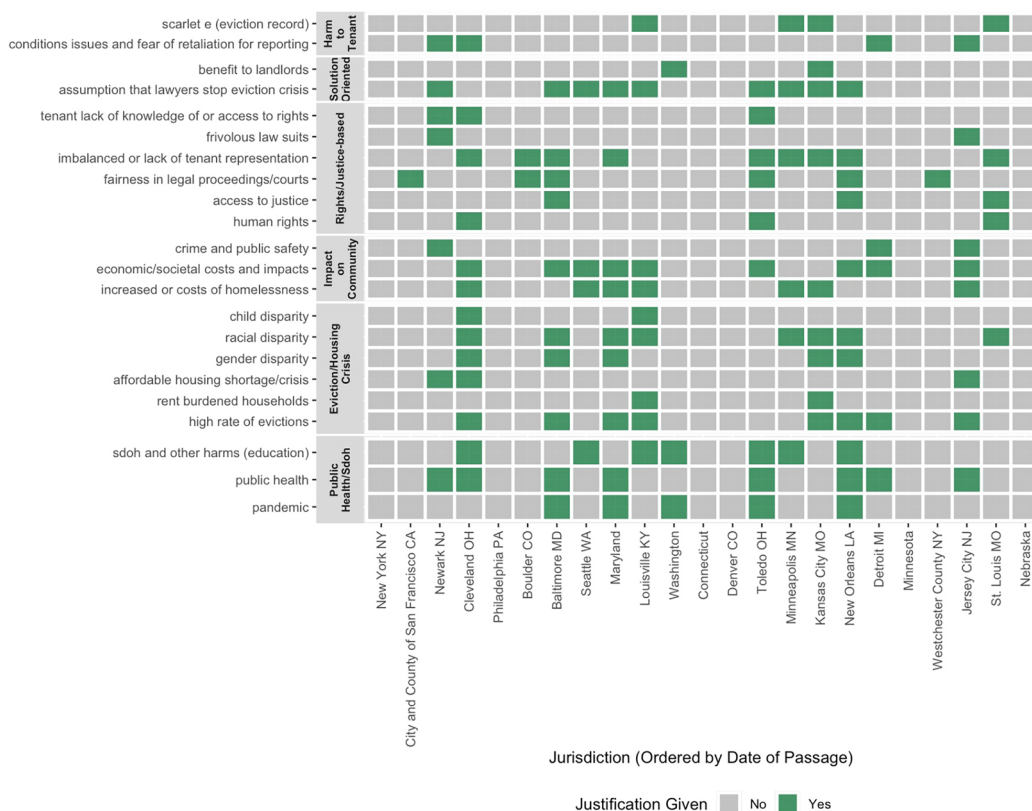


Figure 2. Legislative justification for right to counsel in jurisdictions.

of health, impacting our residents' health outcomes and health care costs." Notably, nine out of the 13 jurisdictions that adopted RTC during the COVID-19 pandemic state of emergency, between March 2020 and May 2023, referenced public health or social determinants of health (SDOH) as a legislative purpose. Out of those nine jurisdictions, five (Baltimore, Toledo, New Orleans, MD, WA) directly referenced the COVID-19 pandemic or its harms as a legislative purpose. In contrast, only three (Newark, Cleveland, Jersey City) out of ten jurisdictions that adopted RTC outside of the COVID-19 pandemic (before March 2020 or after May 2023) referenced public health or SDOH as a legislative purpose (Figure 2).

Policymakers in several jurisdictions introduced RTC legislation to address aspects of the eviction crisis, including the heightened local eviction rate (eight jurisdictions) and extreme disparities in eviction by race (eight jurisdictions) and by gender (five jurisdictions). For example, the Kansas City law recognized that "like many other American cities, Kansas City is haunted by a history of racial segregation, restrictive covenants, redlining, predatory lending, and disinvestment" and "tenants of color, specifically Black women, are disproportionately impacted by evictions due to decades of inequalities in the American housing system." Despite the high rates of children in households threatened with eviction, only the jurisdictions that initially restricted RTC to households with children (Cleveland, Louisville) included the harms of eviction for children in legislation. A minority of jurisdictions discussed cost burden among renters (Louisville, Kansas City) and the shortage of affordable housing (Newark, Jersey City, Cleveland) (Figure 2).

Societal impact and community benefit rationales included economic considerations (9), public safety concerns about increased crime due to eviction (3), and recognition of the increased rate of and costs associated with homelessness (7). For example, in Cleveland legislators cited the need to "protect" the "health, safety, and welfare of citizens." The Cleveland legislation states: "[T]his

housing emergency destabilizes families and neighborhoods, especially the most vulnerable among us, resulting in homelessness, decreased property values, and harm to social tranquility and the general welfare of the City.” In Detroit, the RTC legislation promotes “the public health, safety, general welfare, security, prosperity, and contentment of all inhabitants of the City of Detroit....” Notably, few jurisdictions cited cost benefits of RTC and only two (Toledo, St. Louis) declared, “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.”

Prefatory statements in 13 jurisdictions included principles of justice and fairness, such as increased access to justice (3), fairness in legal proceedings (6), and the imbalance of representation between tenants and landlords (9). These jurisdictions highlighted the need to adhere to the “foundational American principle” (New Orleans) of fair administration and equal access to justice, particularly as a way to prevent tenants’ loss of housing. Several jurisdictions cited an inherent unfairness in the imbalance in representation between landlords and tenants, which discourages tenants from fighting an eviction, raising defenses, or reporting substandard housing conditions. In five jurisdictions (Cleveland, Detroit, Jersey City, Newark, Toledo) legislators described tenants’ lack of knowledge of rights or fear of retaliation for raising rights, especially as it related to substandard housing conditions. In San Francisco and Boulder, the legislature drew a comparison to the landmark case *Gideon v. Wainwright*, 372 U.S. 335 (1963). For example, in Boulder, the RTC statement of legislative intent noted that “the fair administration of justice requires that persons facing the loss of their liberty in criminal proceedings shall have the right to legal counsel,” but “this protection does not extend to legal proceedings where tenants face the serious hardship of being forced out of their homes.”

RTC was occasionally seen as a means of addressing over-burdened civil courts. Both Newark and Jersey City RTC legislation described the high incidence of frivolous lawsuits filed by landlords and pointed to RTC as a way to prevent landlord abuse of the courts. In contrast, in Kansas City, legislation described RTC as a benefit to landlords: “[A] right to legal counsel benefits both tenant and landlord by ensuring housing stability, payment of rent, and inserting professionalism in the eviction proceeding.”

Finally, nine jurisdictions explicitly presumed that tenant attorneys can stop evictions and/or increase housing stability. For example, Cleveland and Jersey City found that providing residents with “access to free legal services in...court will mitigate the aforementioned [housing] emergency and reduce the serious threats to the public health, safety and general welfare of...citizens that [the] emergency has created.”

How RTC Operates: Program Design and Administration

RTC program design and administration varied across jurisdictions. Typically, the RTC law provided the judicial branch (CT, MN, NE, WA) or an arm of local or state government the authority over RTC administration (19). In most jurisdictions, the legislation authorized the creation of a new office or position (9) or allowed the judicial or government entity to directly contract with “designated organizations” or “administering entities” to run the program and/or provide counsel. RTC laws typically included some description of the administrator’s duties that ranged from broad (e.g., CT) to highly specific (e.g., Kansas City). Notably, six jurisdictions included the name of a specific organization that would administer RTC. For example, the Cleveland statute required the city to contract with the United Way of Greater Cleveland. The remaining jurisdictions set criteria for the designated organizations, such as having capacity (10), nonprofit status (14), experience or a history of tenant rights work (4). These entities have a significant role in RTC implementation and, in at least one jurisdiction (Toledo), have rulemaking authority.

Where the RTC legislation created a new position within the local or state government, it was frequently celebrated as a legislative “win.” The new position was generally regarded among local actors as an entity within the government to advocate for tenant protections. For example, one local actor stated:

We fought for that office. Again, we didn't want only a service delivery program, but we wanted this to be an institutional and systemic change.... So, we wanted a permanent government office to continuously advocate for tenants in our community and eviction prevention.

As described herein, concerns about simply funding more service delivery were not unfounded. All jurisdictions integrated RTC into the existing legal services infrastructure within the city or state instead of creating a standalone program. In this approach, even in jurisdictions where private lawyers could serve as RTC attorneys, the city or state provided additional funding to legal services organizations to increase their staff, caseload capacity, and ability to accept RTC referrals. However, some local actors expressed concerns that inadequate funding often limited such efforts, rendering them “symbolic” and a far cry from anything approximating a “right” to counsel.

Who Is Eligible for RTC

The population eligible for legal counsel depended on both the RTC legislation and whether the entity providing legal counsel had its own eligibility restrictions. Jurisdictions frequently limited RTC to tenants who met criteria defined by income level, tenant characteristics, type of housing, or type of case. Fourteen jurisdictions limited coverage to income-eligible tenants, while two (Louisville, Cleveland) initially limited RTC to families with children (Cleveland still did so at the conclusion of the study period) (Figure 3). Nebraska limited RTC to only public housing residents facing eviction in cities “of the metropolitan class” (i.e., Omaha), while Minnesota initially limited RTC to public housing residents in alleged breach-of-lease cases. Fourteen jurisdictions extended

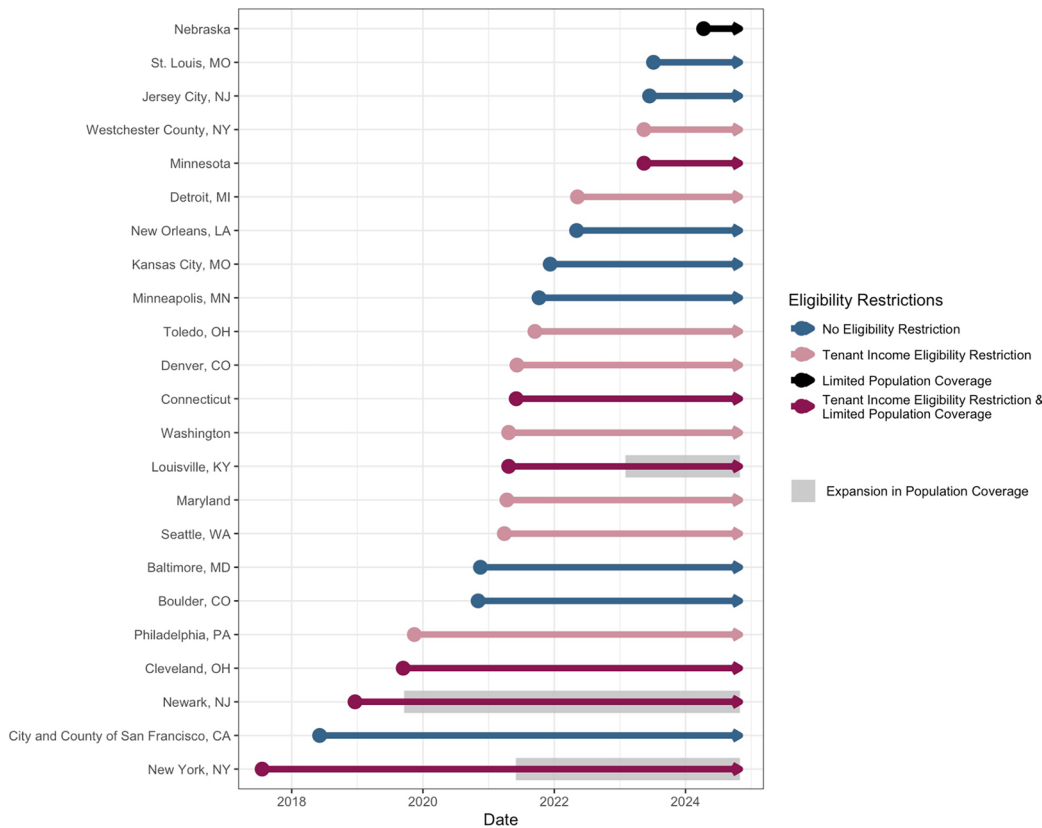


Figure 3. Eligibility and coverage period for right to counsel.

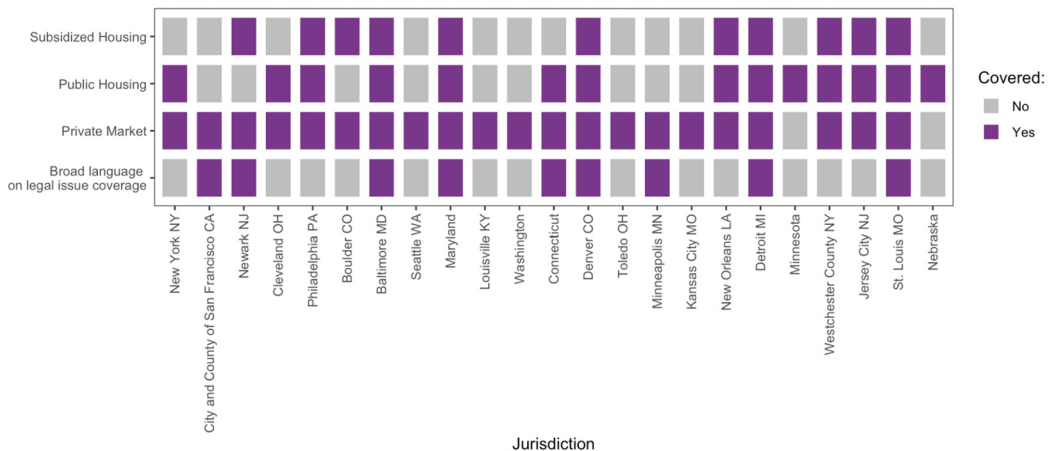


Figure 4. Type of housing eligible for right to counsel.

eligibility for RTC to public housing residents and 11 jurisdictions expressly provided RTC to subsidized housing tenants, in addition to private-market renters (Figure 4).

Policymakers expanded RTC coverage in several jurisdictions. For example, Louisville lifted the child restriction in 2023, Newark included public housing residents in 2019, New York City lifted the income restriction for seniors in 2021, and Minnesota expanded RTC to federally assisted Rental Assistance Demonstration properties in 2024. Policymakers also defined what types of legal disputes trigger the RTC. While all jurisdictions included eviction defense (often depending on the type of housing), nine jurisdictions allowed RTC in affirmative cases, such as rent control, eviction record sealing, fair housing claims, or where the tenant seeks injunctive relief for an extrajudicial or constructive eviction.

In practice, even where the law creates no eligibility restrictions, access to RTC depended on provider capacity and, in some cases, restrictions imposed by a funder. For example, in one city, the private donor that was one of multiple funders of RTC attached restrictions that limited use of the funding to cases that met eligibility criteria related to household composition and income levels. Similarly, organizations funded by the Legal Services Corporation (LSC) could only provide RTC to tenants who meet LSC-eligibility criteria, even where the LSC criteria were more exclusionary than the RTC law. For example, in practice, even when the tenant was eligible for services under the RTC law, LSC-funded grantees could only provide RTC to tenants who met income eligibility and United States citizenship requirements or exceptions.¹⁰ Where RTC programs relied on LSC-funded organizations, non-LSC funded legal service providers were almost always engaged to take referrals, though not always with RTC funding.

When RTC Becomes Available

At what point during the eviction process can a tenant access counsel? Generally, the court-based eviction process includes five stages: landlord provides notice of intent to file an eviction; landlord files the eviction case with the court; the court holds a hearing; the court issues a judgment; and law enforcement executes an order of eviction (Benfer, 2024). Under the RTC laws, all tenants had access to counsel by the hearing stage, if not earlier. Across RTC jurisdictions, timing of access to counsel varied from authorizing it at the point of notice (Boulder, Jersey City, New Orleans) to as late as the second appearance in the case (Toledo)¹¹ (Figure 5). The most common approach was to require the appointment of counsel no later than the first appearance (12) or “as soon as practicable” after initiation of the lawsuit (9). Six of the latter jurisdictions included backstops requiring access to legal counsel by the first appearance. RTC legislation in three jurisdictions (WA, MD, CT) allowed tenants to receive legal

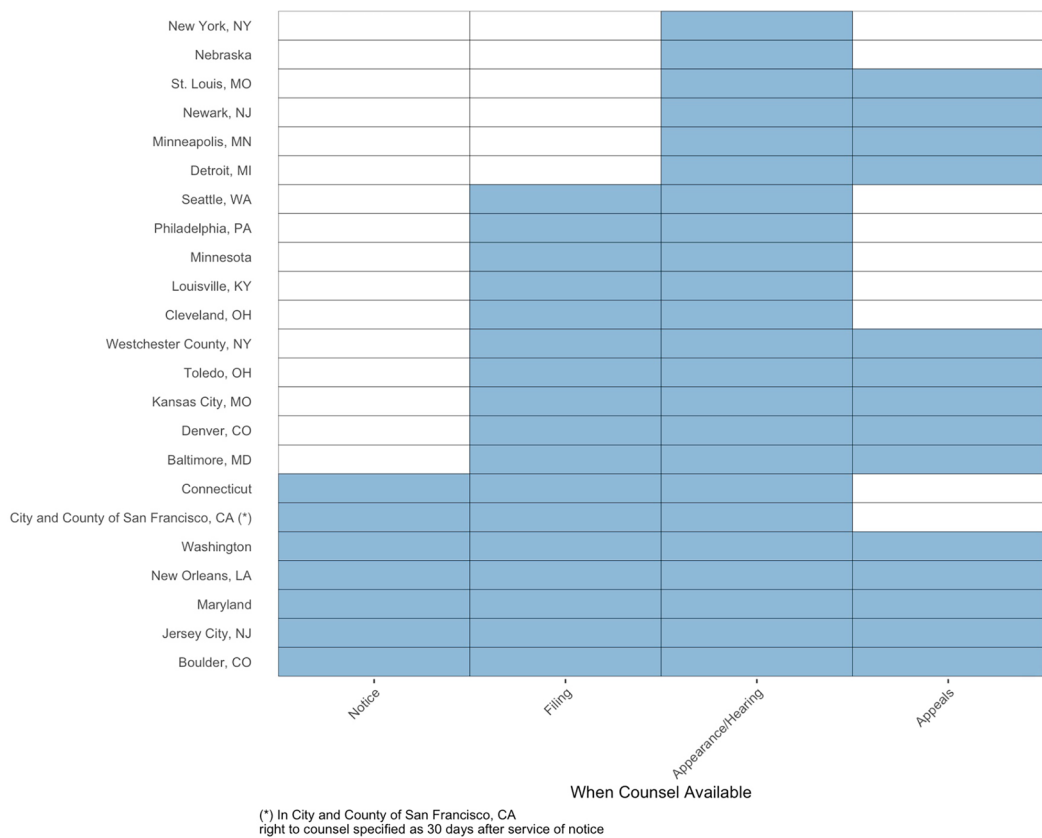


Figure 5. When right to counsel is available in the legal process.

representation at any stage, leaving it up to the legal provider.¹² Finally, RTC was permitted for the appeal of an eviction order in 14 jurisdictions, usually where the attorney deemed the appeal meritorious. However, in at least one jurisdiction, the appeal coverage included in the RTC law was limited by a rent bond requirement, especially when the tenant was unable to pay the bond amount.

In all RTC jurisdictions, the tenant had to make contact with the RTC program to receive counsel. This typically occurred when the tenant appeared in court, responded to legal provider outreach, or proactively reached out for an eligibility determination or services. With the exception of Washington, Minnesota, and Nebraska,¹³ no RTC legislation required the court to appoint counsel to tenants in covered proceedings. Nor did RTC legislation direct courts to provide tenants with information about their right or access to an attorney or ability to request a postponement to obtain counsel. The lack of direction to the courts was sometimes due to a question of whether the jurisdiction had the legal authority to require it.

How Tenants Learn About and Access RTC

The success of RTC depends on access and awareness. RTC programs offered tenants multiple mechanisms for accessing RTC, including online and telephone screening, or onsite at the courthouse. No RTC jurisdiction required the tenant to physically appear at the courthouse to begin the screening process, though they had to appear for their hearings and participate in the legal process, as needed, to be represented. Despite multiple entry points, local actors observed the need for extensive outreach and education efforts to increase access to and knowledge of the RTC program. Legislators in multiple jurisdictions required formal notice of the right (12), typically

in the lease or with a court summons or complaint, and tenant education and outreach programs (13). A local actor described how the multi-pronged approach was implemented:

[I]t has to be in the summons and complaint, there's form language in the statute that has to be included there. That gives folks that information. Also, pretty much all of our providers do a significant amount of outreach to other social service agencies in the area. A lot have the postcards...at all of those agencies. There are some [that] have yard signs and run radio ads. So there's pretty significant outreach throughout the entire state.

How RTC Is Evaluated: Data Collection, Feedback, and Tenant Involvement Requirements

All but one RTC program required some form of tenant feedback and engagement, including participation on an advisory board, or a public hearing requirement. For example, six RTC laws required an annual or bi-annual public hearing on RTC, and four of the six RTC laws that created an advisory board required the appointment of at least one tenant to the board. In practice, jurisdictions had to overcome challenges to tenant engagement. In a jurisdiction that reserved tenant seats on an RTC task force, according to a local actor, low-income tenants faced barriers to participation due to lack of compensation and meetings scheduled during business hours when they were working.

Twenty RTC jurisdictions recognized the need to solicit feedback from tenants and authorized data collection to measure the impact of RTC. However, without existing and well-established relationships with affected communities, most jurisdictions confronted significant barriers to tenant engagement and feedback mechanisms. As local actors observed, it was uncommon for most cities and states to have a high-functioning feedback loop or trustworthy reporting mechanism for low-income tenants. Nevertheless, local actors emphasized the importance of tenants having a voice and the need to build better connections on the ground.

How RTC Is Funded

Nine RTC programs relied on time-limited federal funds, including funds from the American Rescue Plan Act of 2021, Emergency Rental Assistance Program or State and Local Fiscal Recovery Funds, and the Coronavirus Aid, Relief, and Economic Security Act. In 13 jurisdictions, the program was supported by the state or local general fund, which typically required annual budget reauthorization. In four jurisdictions, the RTC program was funded by a newly created revenue stream, including an excise tax on landlords (Boulder), a tax on developers (Jersey City), set aside tax revenue (Denver), and a time-limited eviction prevention fund (MD). At least six city-level RTC programs received funding from private funders. In multiple jurisdictions, RTC funding was drawn from a combination of sources.

Successes and Challenges to Implementing RTC Policies

Across jurisdictions, local actors both highlighted successes and cited significant challenges to implementing RTC. Local actors celebrated the role of RTC in addressing eviction, balancing power dynamics between parties, increasing enforcement of tenant rights, and facilitating coordination between service providers, among other benefits. However, they bemoaned limited program capacity, underfunded and partially allocated budgets, lack of infrastructure, and hiring and retention gaps. In addition, many jurisdictions experienced persistently high default rates despite outreach efforts. Finally, existing laws and initial landlord resistance limited the effectiveness of RTC, with some jurisdictions reporting that landlord resistance softened as the program implementation continued. The following discussion highlights the themes identified across interviews.

RTC as a Locus of Coordination

Local actors in nine of the jurisdictions where RTC was implemented, including Connecticut, Maryland, and Washington, shared how programs increased coordination among service providers and resulted in the creation of a central intake (online, by telephone, or both) that replaced the tenant's "nightmare treasure hunt for legal representation" with streamlined RTC administration and messaging. With the adoption of central intake, legal providers could quickly determine a tenant's eligibility, inform the court, and provide counsel to the tenant. In some jurisdictions, the central intake doubled as a hotline where tenants who were not yet eligible for RTC (due to the stage in their case or income levels) could receive brief advice and information about their rights. Most jurisdictions took a "no wrong door" approach and allowed tenants to contact legal service providers directly. Overall, local actors described the integrated approach as a model for service areas even beyond eviction prevention.

Coordination among service providers also helped prevent confusion and duplication of efforts, and reduced stress among tenants. In one jurisdiction, prior to centralized intake, "Multiple organizations were representing the same tenant or the tenant [did not know] what organization was representing them." A local actor described how coordination between providers relieved the burden of searching for an attorney as well as the "re-traumatization" that comes with explaining the situation to multiple people.

Central intake also created a pathway for undocumented tenants to receive warm hand-off referrals to organizations that are not bound by residency restrictions. The ability of RTC programs to serve undocumented tenants, who local actors frequently described as fearful of interactions with the court system, typically depended upon a well-developed referral plan and the designation of some RTC funding to non-LSC funded organizations.

Funding Gaps and Capacity Deficits

RTC programs required a significant investment to function. Local actors in all jurisdictions described underfunded programs that struggled to meet needs. Since all RTC laws make the "right" or "access" to counsel contingent on funding, tenant attorneys and community groups were often required to advocate for funding to sustain the program. While RTC legislation to date has always resulted in new allocation of funding, local actors emphasized that the funding is not guaranteed and will be depleted without political support. This was especially the case where funding stemmed from time-limited sources, like some of the legislation enacted during the pandemic. Notably, at least two jurisdictions (Louisville, Minneapolis) transitioned from temporary federal funding to permanent local funding. In many jurisdictions, local actors identified supporters in local or state government, but also cautioned that, without demonstration of cost savings and outcomes, the program could quickly be underfunded or dismantled. Multiple local actors blamed insecure funding for capacity and hiring deficits, especially where there was no guarantee of job security.

RTC programs in multiple jurisdictions struggled to meet tenant need and fill attorney positions. For example, the RTC budget in one jurisdiction was only enough to hire two additional attorneys, who stretched to handle 200 cases in a system with 6,000 eviction cases filed annually, many of which could be RTC eligible. Even where funding was available, multiple large jurisdictions struggled to identify a pool of attorneys to staff the program. In at least one jurisdiction, this resulted in unused early funding. In another jurisdiction, San Francisco, the RTC program reported eight attorney vacancies out of 44 positions in 2023–2024.¹⁴ In contrast, however, at least one jurisdiction employed flexible staffing models, such as leveraging volunteer attorneys, so that RTC capacity could expand and contract to ensure eligible clients received services.

Multiple local actors described RTC positions as "underpaid and overburdened" and in an extremely stressful and demoralizing area of legal practice. According to multiple local actors in

one jurisdiction, tenant attorneys experienced sexism, racism, and frequent verbal attacks by landlord attorneys and court personnel, on top of the emotional toll of working with people facing the severe trauma of eviction, poverty, and associated harms. A local actor described the high burn-out rate and heavy burden of eviction defense work:

And the stress and the emotional toll of doing this work, I mean, a full 50 percent of them at some point in time are being burned out after doing this for, you know, a year, two years, three years, they're really just going to get to the point where "I can't deal with this anymore." The emotional burden of it—oftentimes when the tenants come to you, you are their last option, right, as the attorney that's representing them, including many tenants that we work with will flat-out tell their attorney, "Look, if I get evicted, I'm going to be homeless. I'm going to be on the street." And that is a real grind. That's a real emotional burden on the attorney who then, even though they had no involvement in this process for years, they're the last line of defense before this person may or may not be homeless.

Even where a jurisdiction made a concerted effort to provide subject matter and secondary trauma training to RTC attorneys, programs still struggled to prevent high turnover. In one jurisdiction, local actors dedicated substantial resources to developing a pipeline of attorneys and preparing for high turnover for the program to function. Local actors stressed the importance of developing a plan to build a corps that can do the work. Otherwise, they explained, capacity shortfalls result in RTC programs that are never fully implemented.

Lack of sufficient staffing was often linked to the reduction of RTC to "triage systems" or the delivery of brief advice instead of full legal representation. According to local actors, where RTC did not dedicate time or resources to building infrastructure or sufficiently supporting RTC providers, it was not possible to immediately implement the letter of the law and provide counsel to all eligible tenants. Instead, according to a local actor, "Most people are being turned away at this point because they can't take any more full representations."

Providers in other jurisdictions set up temporary systems to compensate for limited resources, such as a vulnerability score, prioritization evaluation, or merit screenings, even where the RTC legislation did not authorize it. For example, despite universal access to assistance according to the law, a local actor from one legal services provider explained their use of a vulnerability score:

We've created a vulnerability score. And at various times, depending on capacity in the system and volume, we'll raise or lower that vulnerability score to create a bar. So the criteria is what you might imagine, it's things like being elderly, or having minor children, or being particularly low income, or mental health issues, or being evicted for nuisance, which is harder to defend...those with a higher number get full scope representation and those with a lower number get self-representation assistance up until their mandatory settlement conference, and then we assign a limited scope attorney. So it's not that they're denied representation, it's that they're given less assistance because we don't have [capacity].

High Default Rates and Outreach Challenges

RTC is of little benefit if tenants did not appear in court and the judge ordered a default judgment against them. In some RTC jurisdictions, upward of 90 percent of tenants facing eviction did not appear in court, making it extremely challenging to identify the defendant and offer legal counsel, even if they could be screened before their court date. Across jurisdictions, local actors reported that RTC greatly expanded tenant representation rates and decreased default rates, especially when accompanied by robust outreach and education. For example, in New York City, local experts pointed to a NYC Office of Civil Justice Report that states: "Since the introduction of a right to counsel program, default judgments in the Housing Court have dropped from 35,130 in 2016 to 23,146 in 2019, a 34% decrease."¹⁵ Legal representation also appeared to reduce the default judgment rate for tenants in Philadelphia: 2.8 percent of represented tenants received a default judgement in favor of the landlord compared to 38.7 percent of unrepresented tenants in fiscal year 2023.¹⁶ Nevertheless, jurisdictions struggled to prevent default evictions. Local actors explained that the high default rate could be due to a lack of awareness about the RTC program, ineffective mail services that prevent tenants from receiving notices from the court in time to

appear in court, or a longstanding general perception that appearing in eviction court would be futile.

Jurisdictions attempted multiple strategies to encourage tenants to appear in court, including increasing education and outreach, partnering with trusted messengers, and contacting tenants once an eviction was filed. Even when the law did not require education, legal service providers and tenant organizers quickly adopted a “wide net” approach to reach high-risk communities. As one local actor described,

We just do all we can. We continue to just get out there in the community and talk with our neighbors primarily, spreading it by word of mouth, spreading it on social media, working through our churches, working through our community networks, and just working it. We let people know we can pass out flyers and attend community events. We just do everything that we can.

Local actors described how outreach and education efforts were typically aimed at “getting the word out at the grassroots level” and took multiple forms, including pamphlets, flyers, mailers, posters, lawn signs, and swag; TikTok videos, radio advertisements, or text messages; and door knocking, among other methods. In addition, advocates frequently staffed tables at community events, festivals, libraries, and back-to-school events; hosted “know your rights” events; or made announcements in the courthouse.

In jurisdictions with hard-to-reach communities, partnering with trusted members of the community was paramount. For example, a local actor explained,

It has come down to strategically [selecting] the individuals we’ve chosen to contract with.... There are these really small super rural communities, and we were fortunate enough to contract...with a private attorney up there that has practiced there her entire career. That is where she’s from. She’s a trusted member of that community. So truly, she is the reason that folks know what’s happening and it’s successful there.... It’s really just the providers who are just showing up to help and just are being in the community that I think makes it work.

Despite the emphasis on outreach, some understaffed and overwhelmed designated organizations delayed outreach and education as a method for controlling case demand. Similarly, in jurisdictions with high turnover and barriers to hiring new attorneys to staff RTC, education and outreach was initially delayed with the goal of securing more attorneys to represent tenants. Even then, one jurisdiction did not prioritize outreach and education until local groups pressured the city to redirect funds for this purpose.

Initial Landlord Resistance

Active landlord resistance, and even the anticipation of it, made it challenging for jurisdictions to fully implement RTC. When one jurisdiction first adopted RTC, according to a local actor, landlord attorneys attempted to intercept tenants or dissuade them from retaining an RTC attorney. As a local actor explained, the landlord attorney often did not identify themselves and the tenants—who mistook the landlord attorney for court personnel or RTC attorneys—rarely knew they had a right that was being denied and would settle the case to the landlords’ benefit.

Anticipation of backlash from landlords influenced tenant attorney strategy. According to a local actor, tenant attorneys frequently chose not to enforce certain RTC legislative provisions, such as landlord penalties for failure to provide notice, to prevent landlords from attempting to repeal RTC legislation. Similarly, another local actor explained, “We have a pretty strong landlord contingency here. So, [with] certain things we have to choose our battles.”

According to local actors in multiple jurisdictions, landlord attorneys became accustomed to represented tenants and, over time, came to view RTC as improving the efficiency of the legal system. In addition, local actors observed that landlord attorneys remarked it was easier to discuss a case with another attorney than with an unrepresented tenant. In contrast, in one

jurisdiction local actors suggested that landlord resistance increased as RTC presence increased, and as RTC shifted power dynamics in favor of tenants. Generally, however, local actors had not observed negative repercussions for tenants who participated in RTC programs.

RTC and the Courts

How did courts respond to RTC and what role did they play in facilitation? Qualitative interviews with local actors surfaced multiple themes across jurisdictions relating to how courts responded to RTC programs.

Judges as Gatekeepers

The success of RTC in practice frequently depended upon judges' willingness to make tenants aware of RTC and to postpone cases to afford tenants time to exercise the right. In jurisdictions where legislation gave implementation authority to a party outside the judiciary, local actors described how tenants' ability to access RTC was often determined on a case-by-case, or judge-by-judge, basis. According to a local actor, whether a tenant obtained a lawyer could depend entirely on the judge: "Depends if they've had their coffee that morning. Depends if their sports team has won the night before." For example, the local actor explained, a judge would decide whether a tenant should have an attorney and, especially in the early stages of the RTC program, if the attorney was not available at the time, the judge would sometimes issue a default judgment in the landlord's favor.

The judicial obligation to balance neutrality and impartiality toward parties contributed to how judges perceived their role. Local actors in one state observed that judges struggled with interpretation of whether the tenant actually had a "right" to counsel that required court enforcement. In another jurisdiction, judges viewed any action to inform tenants of the RTC as giving legal advice from the bench. However, even where judges appeared restricted in their ability to announce the RTC to tenants or to postpone hearings, local actors described how judges and court staff attempted to indirectly inform tenants or to connect them to attorneys. Nevertheless, the inconsistent approach to RTC created barriers to full implementation.

The availability of lawyers and bias against tenants may have affected judges' decisions. For example, judicial response to tenants' requests for postponements to obtain counsel varied depending on who made the request and the judge hearing the case. According to one actor, judges were relatively receptive to granting postponements when an attorney offered to take the case contingent upon a postponement, but they were "more hostile" to granting postponements to tenants who requested one. In Maryland, the Access to Counsel in Evictions Task Force, which included two landlord representatives, reported in 2024 that judges routinely granted postponements to landlords, but the court was inconsistent in providing postponements to tenants and their attorneys.¹⁷

Local actors pointed to the historical functioning and even physical design of the eviction court to explain fundamental barriers to implementation of RTC. As a local actor explained, the court had historically functioned as an "eviction mill," and still did to some extent, with proceedings oriented toward "speed and moving cases quickly." Tenant attorneys could elect to litigate cases, which slowed down the process and made RTC an incompatible "imposition" on the court. In one city, where judges initially resisted any role in RTC, local actors described how organizations designated with administering RTC were left to "fight" for court policies that acknowledged and allowed tenants to exercise their right.

Similarly, local actors described how the court invested in alternative methods for processing the high volume of eviction cases, such as mediators or law clerks who were rewarded for settling cases before a hearing. Mediation was viewed as a means of maintaining existing structural and power dynamics, especially in jurisdictions where the number of available lawyers was

insufficient to meet tenant need. Tenants diverted to mediation were often unrepresented, powerless, and “sitting in a room with the mediator, the landlord, [and the] landlord’s attorney all by themselves.” Local actors equated the consequences of mediation for an unrepresented tenant with the inability to raise defenses, seek dismissals, or obtain an equitable settlement. One mediator in a RTC jurisdiction, who handled landlord-tenant disputes before the cases were filed, described how she would not refer tenants with nonpayment of rent cases to lawyers, because “if it’s just nonpayment, you don’t need an attorney. You need to work out a payment plan.”

Court Culture Implications

RTC may have broad implications for the courts’ treatment of the eviction process and engagement with defendants. Opportunities for developments in the culture of the court emerged when the court was required by the RTC law to appoint counsel or administer some aspect of the program, or where the court voluntarily embraced or interpreted the law as a mandatory right. In these jurisdictions, local actors described RTC as “a total game changer” that resulted in “a complete shift in the landscape.” For example, in Washington, where courts were required to appoint counsel, the State Supreme Court adopted court rules and issued bench cards that provided a script for mandatory disclosure of RTC to tenants. Across these jurisdictions, local actors described a major shift in the courtroom and the eviction system as a whole: instead of the pre-RTC status quo wherein judges rapidly processed cases and ordered default evictions when tenants did not appear, they now regularly informed tenants of the RTC and postponed hearings to allow time to obtain a lawyer. In these “culture shift” jurisdictions, the judge would consistently make an announcement that free lawyers are available and give the tenant time to connect with a lawyer. The result, according to a local actor: every eligible tenant who appeared in court and wanted a lawyer received one.

In jurisdictions where judges voluntarily facilitated RTC, prior to its adoption, if a tenant failed to appear, courts almost always ordered a default judgment of eviction. With the adoption of RTC, local actors described attorneys obtaining continuances regularly, especially when advocates conducted outreach to the court. “Now, they will continue the cases for days to a month. Attorneys are regularly being granted continuances to prepare defenses, where previously they were rare,” according to a local actor.

Even in a jurisdiction where the state law required a hearing at the first court date, regardless of tenant representation, local actors observed “invisible” policy shifts:

Our courts have been transformed by right to counsel...it’s now normal to try a case a few months after its filing, giving us time to investigate and assert defenses and to negotiate, where in the past, attorneys were expected to try a case with only a week to prepare – an impossibility that discouraged attorneys from getting involved in tenant defense. In the past, almost every case ended in eviction, but now, most cases end in humane settlement agreements. Prior to right-to-counsel, the rules of civil procedure, which are important, were ignored by many but now, attorneys challenge improperly filed and served cases and frequently secure dismissals. And attorneys assert a panoply of legal defenses that the court was not even aware of before. These are invisible policy wins happening with RTC where committed lawyers and tenants come together and transform the landscape of court and of tenants’ lives.

Local actors also reported that RTC reduced bias against tenants that they described as rampant in most jurisdictions. One actor described how, prior to RTC, housing court was a “cattle call culture” ripe with “racism in the court.” As tenant representation increased, the treatment of tenants within the jurisdiction improved. Local actors described how tenants who were previously powerless came to be viewed as viable parties. According to a local actor, before RTC, “tenants were cornered by landlord attorneys to do the settlements and stipulations.... Sometimes, judges wouldn’t let tenants talk or just shut them down and didn’t allow them to ask questions. And they had about two minutes at best in terms of face time with the judge and they didn’t really care. They’re literally talking about this person becoming homeless and losing their home, and

the judges didn't care." In the same court, after RTC, local actors saw a marked improvement in how tenants were treated—with greater respect.

Ultimately, RTC may help to balance power between landlords and tenants when effectively implemented, especially when explicitly deployed as part of larger organizing strategies (Michener, 2022b, 2025). Some tenant organizers saw RTC as a power-building tool that could enable tenants to "claim power." As a local actor observed:

It shifts the culture of the court, it shifts the power relationship between landlords and tenants because it gives tenants a comfort level around "Yeah, I can fight for my rights and there's going to be somebody there who's going to have my back in court if I need it in any way."

Increased Enforcement of Tenant Rights

RTC also increased the courts' awareness of the need to enforce tenants' rights under local and state law. According to a local actor, it was eye-opening for courts to witness how many evictions, which would ordinarily result in a "rubber stamp," were contested once RTC was adopted. Expanded court awareness changed judges' consideration of tenant rights. As more RTC attorneys contested evictions, the court was less likely to unquestioningly accept landlords' demand for rent or possession. A local actor in one jurisdiction described the shift from default judgments to rights enforcement:

[Before RTC, the] court's focus was on "When will you be out" and not on "Are there defenses and can this person stay?" The whole system is shifting from the assumption that the person will have to move to "Let's take the time to inquire about whether they have to move."

Local actors in multiple jurisdictions attributed RTC with increased enforcement of tenants' right to a warranty of habitability. According to a local actor, tenant attorneys identified and raised habitability issues in almost all eviction cases, which had been "completely ignored" before RTC. In another jurisdiction, a local actor stated that habitability issues that most low-income tenants in eviction court experienced would have gone unaddressed without RTC. Even where RTC legislation did not permit affirmative litigation to enforce building code or warranty of habitability violations, access to a lawyer allowed identification of legal violations and the information needed for non-RTC advocacy. For example, in one RTC jurisdiction, increased representation in eviction cases surfaced a pattern of lead-based paint violations, which allowed attorneys to file affirmative cases against landlords.

Similarly, local actors observed an increase in eviction record expungement in cases where tenants had representation. With RTC, tenants became aware of their ability to request an expungement of the eviction record and routinely petitioned the court. As the practice increased, landlords began regularly agreeing to it—"a complete change in how the world works," according to a local actor.

Development of Tenant Protective Case Law and the Pursuit of Systemic Change

The advent of RTC also prompted courts to settle ambiguous areas of the law and develop landlord-tenant case law, typically in the tenants' favor. According to a local actor, there was almost no appellate law in the area of eviction, but since the adoption of RTC, there were new decisions as frequently as every few weeks. Multiple local actors in one jurisdiction observed a steep increase in the development of tenant-supportive case law, attributing the shift to lawyers forcing judges to confront legal issues. One actor described the significance of RTC to the development of protective laws:

It's really important that people understand that the right to counsel and having lawyers is not simply about having somebody who's going to accept the system as it is and walk you through what goes on in court, but having somebody who really understands the law and is going to vigorously advocate and is also going to look not just at the box that you're placed in, but look at the laws and the conditions under which housing rights are being litigated and think transformatively about how to change them...

RTC programs also put tenants in a position to advocate and seek further systemic changes. As a local actor explained, when a person internalizes that they have “right” to something, it “has some meaning in how they conduct their lives” and creates accountability to tenants:

It was never just about “Let’s make sure people have lawyers.” It was always about “How do you shift the fundamental relationship between landlords and tenants outside of housing court and how do you create a situation where tenants know they have access to a lawyer,” and that that knowledge and that internalized sense of entitlement and of a right empowers them to stand up for themselves in different ways, like in their building and on their block and when their landlord is harassing them or doing different things.

Another local actor echoed the sentiment: “It is about systems change, it’s about balancing disparity in power.” This effect of having a “right” can be seen in local pushes for greater legislative action, such as “just cause” laws and increased affordable housing, especially among organizers who were concerned prior to the adoption of RTC that tenants engaged in any reform movement would not have legal support.

Discussion

RTC programs vary widely in both their statutory design and implementation. We explored a set of questions about the goals, characteristics, and implementation of currently existing RTC programs. We described how programs differed in terms of design and intended purposes, highlighting eight key dimensions along which RTC laws can be characterized: dates of passage and implementation, justifications, program design and administration, eligibility, timing of availability, education and outreach, evaluation, and funding. We also explored the implementation challenges and barriers these programs faced, as well as early successes in the integration of these programs within the eviction system.

We identified considerable variation between RTC laws as adopted in legislation and executed on the ground. Local actors frequently cited deficits related to capacity, funding, infrastructure, education, and outreach as limiting the effectiveness of RTC. These local actors observed that, where jurisdictions did not dedicate resources to build infrastructure or sufficiently fund and staff RTC providers, it was not possible to immediately or fully implement the letter of the law. This was even the case in jurisdictions where RTC laws provided all tenants facing eviction with legal counsel. RTC providers who received insufficient funding or struggled to address staffing shortages described having to narrow access to RTC laws by limiting eligibility, developing prioritization filters, or restricting education and outreach to control the influx of tenants seeking assistance. The stated purposes of RTC—from protecting public health to addressing eviction to upholding fundamental principles of fairness and justice—can never be realized if programs are not fully supported or funded.

We also highlighted how the level of funding commitments amounted to the difference between RTC as a right that is accessible to all eligible tenants and RTC as a “right” with insufficient support to guarantee representation to all eligible tenants—which was the norm. As one interviewee reflected, “the main thing is the fact that it’s not considered a right. It’s a program subject to funding and it could be defunded. It’s something people feel that they can take away.” Without the *right* to counsel and the funding to sustain it, RTC cannot fulfill its potential, let alone the goals policymakers set out to achieve when adopting RTC legislation.

We emphasized two fundamental structural issues that appear to have thwarted RTC implementation in multiple jurisdictions. First, unless the court is required to appoint counsel (e.g., WA), judges in eviction proceedings have enormous discretion over tenant access to counsel and ultimately, the effectiveness of RTC. The judges’ control over the eviction proceeding, combined with their ability to use discretion, gives them gatekeeping control over who obtains counsel. Judicial reluctance to inform tenants of their right is likely due to a longstanding court culture wherein judges defer to landlords (Sudeall & Pasciuti, 2021). Where the court is without direction

from the legislature or the State Supreme Court on how to integrate RTC, judges may not inform tenants of the right in order to appear impartial and neutral or maintain the status quo of the court. In attempting to abide by judicial canons, as local actors described, court actors likely unintentionally left qualifying tenants vulnerable to eviction. The importance of the court in implementation was made clear by jurisdictions where the judiciary was responsible for, or voluntarily supported, implementation and became more aware of often-overlooked rights of tenants because of RTC programs. In these jurisdictions, the culture of the court shifted, the eviction process slowed, and the court facilitated the legislative intent of fairness and access to justice. In contrast, where the court treated parties differently, it reduced the effectiveness of RTC.

Second, the historical disempowerment of race/class-subjugated tenants has prevented participation in policymaking, strong pathways of communication and feedback, and trusted agencies of enforcement (Michener, 2020). This history is reinforced in a court system that typically ignores tenants and treats them differently and as “less than” landlords. Without any prior infrastructure for communication or existing relationships with affected populations, RTC programs struggled to identify tenants facing eviction, educate tenants about the RTC, and engage tenants in feedback systems and advisory boards. Thus, even though RTC has resulted in substantial increases in representation, not all tenants have access to counsel and these programs are missing critical voices.

Despite these challenges, we found clear evidence that when tenants facing eviction have attorneys, the court culture and inherent power imbalance, as well as eviction policy, can shift in favor of the tenant. Local actors repeatedly reflected on improved treatment of tenants, postponement of hearings to obtain counsel and conduct case investigations, identification of previously overlooked legal issues, and the development of tenant-supportive case law. These findings underscore the fundamental importance of RTC to ensure tenant rights are enforced and households threatened with eviction can avoid its dangerous fallout.

Areas for Future Research

This article provides a descriptive analysis of RTC programs as they currently exist in the U.S., as well as some preliminary exploration of their effects on the courts and tenants' experiences. Considerable additional research is required to explore the full impact of these programs for tenants, landlords, courts, and communities disproportionately affected by eviction. We suggest three areas particularly deserving attention here.

First, we encourage research on the direct effects of RTC on the functioning of courts and the court process, the mobility and well-being of tenants, and landlords' behavior. Does the introduction of RTC lead to changes in the odds that a case is dismissed or that a settlement is reached? How does the timing of access to counsel, including the timing of appointment with respect to the length of the overall eviction proceeding, affect counsels effectiveness? Do eviction cases take significantly longer after implementation of RTC? Do they lead to changes in the amount tenants owe when they are evicted? Existing research on legal representation and RTC has largely been focused on these sorts of first-order outcomes using court data (e.g., Cassidy & Currie, 2023; Ellen et al., 2021). This research should be extended to address additional questions related to both court processes and tenant outcomes. For example, we encourage future researchers to examine the link between legal representation and tenants' understanding and assessment of the fairness of the legal process. We also strongly encourage research exploring the effects of RTC on landlord behavior.

Second, more research should explore how RTC programs may lead to broader changes in a range of domains including landlord-tenant dynamics, civil legal systems, housing supply, community well-being, and power structures within race/class-subjugated communities. We are particularly interested in how RTC affects landlord-tenant relationships outside of court: How does it affect tenants' willingness to lodge complaints about living conditions or demand repairs? How does it alter landlord screening or rent setting (Collinson, Humphries, Kestelman, et al., 2024)? How does it shape tenant organizing and local political dynamics (Michener, 2020; Michener & SoRelle, 2022)? Is it linked

to increases in tenant outreach and education in communities at highest risk of eviction? Our qualitative research highlighted many of these outcomes, opening the door to future investigations.

Third, research that explores variation in the forms and effects of RTC programs is critical to identifying best practices and targeting interventions. As described here, these programs vary considerably between jurisdictions, and we should investigate the causes and effects of these variations. In addition, how does the state of local landlord-tenant law in an RTC jurisdiction facilitate or obstruct RTC and its outcomes? We also encourage research that explores how programs are facilitated or constrained as a function of other tenant protections (e.g., shorter or longer notice periods, just cause statutes, rental registries). Certain renters are at greater risk of eviction than others. Existing research highlights the disproportionate burden of eviction faced by women, Black renters, lower-income renters, and households with children. These risks are intersecting, putting certain groups (e.g., Black single mothers) at extremely high risk of eviction. Does RTC work equally well for all renters? Specifically, it is critical to determine whether RTC effectively targets the needs of historically marginalized renters at high risk of eviction and, if not, why that is the case.

We emphasize the need for researchers to engage in community-based participatory research. Interviews with tenants and tenant organizers, as well as feedback from our Tenant Advisory Board, underscored the importance of engaging race/class-subjugated communities and other affected populations in the design, implementation, and dissemination of research. Tenants and organizers routinely challenge the assumptions of researchers who have not been party to eviction cases, and can make significant contributions to the design of research questions. Likewise, they can be critical partners in data collection and analysis. Who is speaking to the community matters and affects the level of comfort, and, in turn, the quality of the data being collected. Researchers should work to actively collaborate with tenants and organizers in the development, collection, analysis, and sharing of data and findings to multiple, diverse communities.

Despite the strengths of the study, it also has several limitations. First, while we captured details in RTC legislation and implementation, we did not evaluate local political realities that could have affected implementation of RTC. Second, specific state and local variations in extant eviction law, including whether judges were elected, were not factored into the analysis. Third, this study did not include an examination of the effect of, or experience with, RTC among landlords or tenants. Finally, this study did not examine the existence or effects of complementary interventions, such as eviction diversion, just cause eviction laws, eviction filing notice periods, or ERA, among others. These are important areas for additional research.

Conclusion

Policymakers have come to recognize the urgency of addressing eviction and are adopting RTC policies as a potential solution. Due to the ongoing threat of eviction and its effect on households and the community at large, it is necessary to fully understand RTC measures and how they are implemented in practice. Our descriptive framework and accounting of initial impacts and challenges of RTC provide researchers and policymakers alike with the tools to advance, evaluate, and refine RTC and related strategies to prevent eviction and safeguard the communities most impacted by eviction and associated harms.

Notes

1. Between 2007 and 2016, approximately one in five Black adult renters lived in a household that received an eviction filing, compared to 1 in 24 white adult renters (Graetz et al., 2023). Approximately one-third of households facing eviction were filed against at the same address, a phenomenon where the landlord engages in serial eviction filing to influence tenant behavior (Leung et al., 2021). Black women are evicted at the highest rates: approximately 15.9 percent more female than male renters across all races and 36.3 percent more black women than black men are evicted (Hepburn et al., 2020). Overwhelmingly, families with

young children are evicted at the highest rates: The eviction filing rate for adults living with a child was more than double (10.4%) the rate for adults without children (5%) (Graetz et al., 2023).

2. These efforts increased with the availability of pandemic recovery funds, including the Consolidated Appropriations Act of 2021 (effective December 27, 2020 through September 30, 2022), which provided \$25 billion in ERA, and the American Rescue Plan Act of 2021 (effective March 11, 2021 through September 30, 2025), which provided an additional \$21.55 billion in ERA and \$350 billion in State and Local Fiscal Recovery dollars that could be used for eviction prevention measures like RTC (U.S. Department of the Treasury, 2024; Yellen et al., 2021). In addition, in 2021, 2022 and 2024, the U.S. Department of Housing and Urban Development launched the Eviction Protection Grant Program to provide \$20 million to legal service organizations to increase eviction prevention efforts.
3. After the study concluded Columbus, OH, Los Angeles City, CA, and Los Angeles County, CA, adopted tenant RTC, bringing the total number of jurisdictions with the policy to 26. On July 16, 2024, Los Angeles County adopted tenant RTC, effective January 1, 2025. On December 18, 2024, Columbus enacted a tenant RTC ordinance. On April 1, 2025, Los Angeles City enacted a tenant RTC ordinance.
4. Testimony of Maryland Building Industry Association, HB 18 Landlord and Tenant – Eviction Action – Right to Counsel, February 17, 2021, https://mgaleg.maryland.gov/cmte_testimony/2021/jud/1cLzqk4O4EyrTrHJmVwf1UndRQ6BxErjv.pdf.
5. Maryland HB 18, House of Delegates Voting Report, March 7, 2021, <https://mgaleg.maryland.gov/2021RS/votes/house/0557.pdf>.
6. Washington SB 5160, Voting Report, April 4, 2021, <https://legiscan.com/WA/votes/SB5160/2021>.
7. Connecticut HB 65331, Voting Report, June 10, 2021, <https://legiscan.com/CT/votes/HB06531/2021>.
8. In most instances, since few people were typically involved in the local implementation of RTC, we mask the specific city to protect the anonymity of local actors and interviewees and to prevent political or other alienation locally.
9. A related but separate arm of this study involves in-depth interviews with tenants across several cities that implemented RTC. Since that data collection is still in progress, we do not report on it here.
10. 45 C.F.R. Part 1626.
11. In Toledo, “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.” Toledo Mun. Code § 1768.02(a).
12. However, pursuant to guidance issued by the Washington Office of the Attorney General, “an indigent tenant must be offered a court-appointed attorney before an unlawful detainer proceeding may go forward.” Letter from Colleen Melody to Jim Bamberger, Re: E2SSB 5160 and Proclamation 21-09, July 9, 2021.
13. Minnesota RTC is limited to public housing and Rental Assistance Demonstration tenants. Nebraska RTC is limited to public housing tenants.
14. City and County of San Francisco, Tenant Right to Counsel: 2024 Update to Land Use and Transportation Committee, <https://sfgov.legistar.com/View.ashx?M=F&ID=12884642&GUID=A36EC077-730C-4BD0-B4EA-869B23842BF4>.
15. Eviction filings dropped by 27 percent during the same timeframe, from 233,884 in 2016 to 171,539 in 2019. NYC Office of Civil Justice, Annual Report 28 (2019), https://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_Annual_Report_2019.pdf.
16. City of Philadelphia, Right to Counsel Annual Report FY2023 <https://www.phila.gov/media/20240816090859/Right-to-Counsel-annual-report-FY23.pdf>.
17. Access to Counsel in Evictions Task Force, Report of the Access to Counsel in Evictions Task Force (January 2024) https://www.marylandattorneygeneral.gov/A2C_Docs/2024_ACE_TF_Report.pdf.

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