

Submitted online: Feb. 6, 2024

Urban Affairs Committee

RE: LB1046 (J. Cavanaugh) – Provide for appointment of counsel for terminating hearings and eviction proceedings under the Nebraska Housing Agency Act

### SUPPORT

The League of Women Voters of Nebraska recognizes our society's needs for policies that encourage decent, adequate standards for food, clothing and shelter for those in need. The LWFNE also seeks to balance the scales of justice to ensure that no person suffers discrimination before the law due to their economic status.

LB1046 supports those in public housing who face eviction by providing for a court-appointed attorney to represent them in public housing authority hearings and related court proceedings. Criminal suspects who are detained by law enforcement must be informed of their 5th and 6th Amendment rights. Arresting officers must state a detainee's "Miranda Rights," which include "You have the right to consult with a lawyer and have that lawyer present during any questioning. You have the right to an attorney. If you cannot afford an attorney, the court will appoint one for you."

For years, many have advocated for the expansion of court-appointed attorneys for eligible persons in civil cases. In the case of housing eviction courts, tenants are underrepresented compared to landlords, 3 percent to 80 percent (1). In 2017, New York City granted low-income clients in both private and public housing the right to counsel in eviction cases. The city's eviction rate declined by 30 percent, maintaining 84 percent of represented tenants in their homes (2). Newark, Chicago, Philadelphia, Cleveland and the state of Connecticut are finding that they are saving money on public safety-net housing measures along with savings in court-appointed foster care (3).

LB1046 requires Omaha's public housing authority to notify tenants when their housing is in danger of termination. They would be required to inform the tenants that they have a right to an attorney to contest their eviction, at no cost to them. This bill allows tenants facing a myriad of circumstances to benefit from the advice of counsel to ensure that their rights are upheld, to negotiate payment of back rent, to find future housing, and to determine how their eviction will appear on their rental history or credit report. It also enables tenants to contest landlords who do not provide proper maintenance or proper mitigation of safety hazards. Having rights to counsel may help balance the scales in landlord-tenant law.

Please advance LB1046 to General File in an effort to prevent homelessness and ensure equal representation for public housing tenants. Thank you for all you do for the people of Nebraska.

Sincerely,  
Carol Dennison, Social Policy Action Team, LWFNE

1. Ludden, J. (2023, July 8). More renters facing eviction have a right to a lawyer. Finding one can be hard. NPR. <https://www.npr.org/2023/07/08/1185888943-renters-tenant-rights-eviction-lawyer-right-to-counsel-court>
2. National Coalition for a Civil Right to Counsel. (2023, November). The Right to Counsel for Tenants Facing Eviction: Enacted Legislation. [http://www.civilrighttocounsel.org/uploaded\\_files/283/RTC\\_Enacted\\_Legislation\\_in\\_Eviction\\_Proceedings\\_FINAL.pdf](http://www.civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf)
3. Asiegbu, G. (2023, October 31). Mayor Johnson sets sights on enshrining right to counsel for Chicago tenants in eviction court. Injustice Watch. <https://www.injusticewatch.org/civil-courts/housing/2023/right-to-counsel-expansion-chicago/>