

Resources for Advocates Assisting with Eviction Prevention

PRACTICE TIP • September 2020

Civil legal aid plays a critical role in eviction prevention, and eviction prevention is crucial to the health of older adults. The COVID-19 crisis has brought national attention to longstanding housing vulnerability for low-income older adults. In the spring, researchers estimated that federal CARES Act eviction protections provided relief to roughly 43 million renters.¹ In the absence of these protections, evicted individuals may have become homeless, threatening the lives of older adults who are more at risk for severe illness from COVID-19 than the general population.² According to the Centers for Disease Control, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new, shared housing settings with friends or family, or congregate settings such as homeless shelters.³

Civil legal aid is a crucial intervention to preventing eviction. Multiple studies demonstrate that when tenants have legal representation, they are more likely to remain housed, ultimately reducing their risk of homelessness.⁴

This Practice Tip is intended to clarify existing resources for attorneys to reference when assisting clients with eviction prevention. This is not direct legal advice, or a guide to the eviction process. Federal eviction protections are evolving, and state and local eviction regulations vary significantly. It is important to connect with a legal services attorney to understand each individual situation. Advocates reviewing this Practice Tip should use it as a guide for reference to other materials for more information.

Current Status of Protection

The federal CARES Act eviction moratorium expired on July 25, 2020. In September, the Centers for Disease Control (CDC) issued a [temporary halt in residential evictions to prevent the further spread of COVID-19](#). This order applies to all residential tenancies in the U.S. The order is effective September 4, 2020 through December 31, 2020. An [in-depth analysis](#) from the [National Housing Law Project](#) (NHLP) clarifies that the moratorium applies to all tenants who present a signed declaration to their landlords stating:

- their income is less than \$99,000, they did not have to pay income tax in 2019, or they received a stimulus check;
- they are unable to pay rent due to income loss or extraordinary out-of-pocket medical expenses;
- they would become homeless or need to double-up if evicted; and
- they will still make partial payments (“using best efforts to make timely partial payments that are as close to the full payment as the individual’s circumstances may permit, taking into account other non-discretionary expenses”).

1 See Congressional Research Service, CARES Act Eviction Moratorium, (April 7, 2020) available at: crsreports.congress.gov/product/pdf/IN/IN11320.

2 See CDC, Coronavirus Disease 2019 (COVID-19), People Who Are at Increased Risk for Severe Illness, available at cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increasedrisk.html (accessed August 26, 2020).

3 See Centers for Disease Control and Prevention, Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19, (September 1, 2020), s3.amazonaws.com/public-inspection.federalregister.gov/2020-19654.pdf.

4 American University, The Justice in Government Project, “Key Studies and Data about How Legal Aid Improves Housing and Outcomes,” (July 2019), american.edu/spa/jpo/toolkit/upload/housing-7-30-19.pdf.

The moratorium applies to evictions for nonpayment of rent. It acts as a floor and applies wherever there is not a more protective state or local moratorium in effect. NHLP has created an [overview](#) and [FAQ for renters](#). The materials are currently available in [Arabic](#), [Vietnamese](#), and [Spanish](#), with more translations to be posted soon.

Beyond the evolving federal protections, states and cities have also enacted their own eviction protection measures. The Eviction Lab [COVID-19 Policy Scorecard](#) tracks each state's short-term eviction protections, tenancy preservation measures, court process, and enforcement of eviction protections.

Eviction Defense During COVID-19

NCLER released an in-depth Chapter Summary, [Eviction Defense During COVID-19](#), authored by the National Housing Law Project. The summary details key due process protections for eviction defense and suggestions for advocating for broad based relief. A [webinar recording](#) includes an extensive question and answer session with more detail.

Suffolk University Law School's Legal Innovation and Technology (LIT) Lab recently developed a new tool to help tenants exercise rights under the CDC's eviction moratorium. The tool is mobile friendly and walks tenants through the moratorium's qualifying questions step-by-step. The [Eviction Moratorium Tool](#) is part of the [Document Assembly Line](#) project, developed to rapidly respond to legal needs in COVID-19.

Many tenants will feel pressured to move out as soon as they receive an eviction notice from their landlord. It is important for older tenants to know their rights, both during COVID-19 and after. Advocates can play an important role by connecting older tenants with legal representation to protect their housing rights. More information on legal aid connections is below.

Using Reasonable Accommodations to Prevent the Eviction of Elderly Tenants with Disabilities

The Fair Housing Act and other civil rights laws mandate that housing providers provide reasonable accommodations to residents. If the provider fails to do this, it may be considered housing discrimination. Reasonable accommodations protections can be powerful tools to prevent the eviction of older adult tenants with disabilities. As explained in this [Chapter Summary](#), authored by attorneys from the National Housing Project, there are clear steps an attorney can take to assist a tenant in requesting a reasonable accommodation, and the [webinar recording](#) includes more detail.

Additional Resources

Multiple organizations are leading extensive efforts to provide technical assistance and training to legal aid organizations assisting clients through the housing crisis. Here is more information:

- [National Housing Law Project](#): NHLP has developed a dedicated COVID-19 page.
- [EvictionLab](#): EvictionLab COVID-19 resources include profiles of each state's eviction and housing protections.
- [National Low-Income Housing Coalition](#): NLIHC convened Disaster Recovery resources to assist programs.
- [National Disaster Legal Aid](#): A partnership between Lone Star Legal Aid, the American Bar Association Standing Committee on Pro Bono and Public Service, Legal Services Corporation, National Legal Aid and Defender Association, and Pro Bono Net, the website is a centralized resource for legal aid handling multiple types of disasters.

Connecting to Legal Aid

Older adults with questions about their housing should connect with legal representation for assistance. The [Eldercare Locator](#) provides information on Older Americans Act legal services available by county and state. The [Legal Services Corporation](#) offers a Find Legal Aid tool to search by address.

Please contact ConsultNCLER@acl.hhs.gov for free case consultation assistance. Sign up for our email list and access more resources at NCLER.acl.gov.