



CONNECTICUT ADVISORY COUNCIL ON HOUSING MATTERS



Reply to: 16 Main St., 2nd floor
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Minutes of the Meeting of December 17, 2020

Council members present: Michael Clinton, Loo Dahlke, Kathy Flaherty, Venoal Fountain, Jane Kelleher, Houston Putnam Lowry, Carl Lupinacci, Sam Neves, Raphael Podolsky, Jay Pottenger, Dave Purvis, Margaret Suib, Richard Tenenbaum, John Wirzbicki

Council members absent: Stephanie Ma, Richard DeParle

Public officials present: Eduardo Torrealba

Members of the public present: Neil Brockwehl, Catherine Freeman, Nancy Hronek, Sharon Levy, Shelley White, Sally Zanger

1. Preliminary matters:

a. The meeting, held by Zoom, was called to order by the chairperson at 4:07 pm on December 17, 2020.

b. The agenda was approved unanimously (motion by Houston Putnam Lowry, second by Michael Clinton).

2. Review of proposed draft of 2021 biennial report: The Advisory Council reviewed the draft report, paragraph by paragraph. All bulleted sections except two were agreed to and accepted, either as proposed or in modified form. The two sections not agreed to were the ones entitled "Pre-execution hearings" and "Expansion of reasons for eviction." The accepted language and the non-agreed-upon bulleted sections are attached as Appendix A. It was moved (by Michael Clinton) and seconded (by Loo Dahlke) to table discussion of those two bulleted sections and a final vote on the report to an additional special meeting of the Council. The motion was approved unanimously. The Council agreed to hold that meeting at 4:00 pm on Tuesday, December 29, 2020. Members were encouraged to review the two unapproved bulleted sections and to circulate ideas for alternate language or other resolution of the disagreement prior to the meeting.

3. Regular meeting schedule for 2021: It was moved (by Michael Clinton) and seconded (by Margaret Suib) that the regular quarterly meetings of the Advisory Council in 2021 will be on March 9, June 16, September 8, and December 8. The motion was approved unanimously.

4. Adjournment: It was moved (by Jay Pottenger) and seconded (by Michael Clinton) to adjourn. The motion was approved unanimously and the meeting was adjourned at 6:23 pm.

Respectfully submitted, Kathy Flaherty, Secretary

APPENDIX A

Draft of biennial report as of December 17, 2020

All parts of this draft were accepted by the Advisory Council on December 17, except for the two highlighted sections, which were tabled until the Council's December 29, 2020, special meeting.

REPORT TO THE GENERAL ASSEMBLY

pursuant to
Section 47a-73 of the Connecticut General Statutes

January 9, 2021

Members of the Council

Raphael L. Podolsky, Chairperson

Kathleen Flaherty, Secretary

David R. Purvis, Deputy Secretary

Michael H. Clinton

Loo Pacacha Dahlke

Richard DeParle

Venoal Fountain, Jr.

Jane Kelleher

Houston Putnam Lowry

Carl Lupinacci

Stephanie Ma

Samuel Neves

J.L. Pottenger, Jr.

Margaret Suib

Richard Tenenbaum

John Wirzbicki

Acknowledgement

The Council gratefully acknowledges the participation and involvement in Advisory Council meetings of the housing clerks, housing mediators, housing prosecutors, and representatives of the Court Operations Division of the Judicial Branch.

The Council also acknowledges with sadness the death of Atty. David Pels of Newington, a current member who had been an active participant in the Council since its creation in 1978.

REPORT OF THE CONNECTICUT ADVISORY COUNCIL ON HOUSING MATTERS

Pursuant to C.G.S. §47a-73, every two years the Connecticut Advisory Council on Housing Matters makes a report to the General Assembly on the administration of housing matters in the court system. This report constitutes the Council's report and recommendations for 2021.

We write this report during what is still an extraordinary time for the housing court system. As a result of the Coronavirus pandemic and in accordance with Executive Orders from the Governor, the entire civil court system was substantially shut down in mid-March 2020. In particular, courthouses were largely closed to anything other than Priority 1 cases, a category that excluded nearly all housing cases. Since September, the courts have incrementally followed a process of reopening. Older summary process cases and cases exempt from the eviction moratorium are now being processed and executions issued and carried out. Until at least December 31, 2020, Executive Orders continue to maintain a general moratorium on the initiation and filing of residential summary process cases, although a limited number of exceptions are permitted – primarily for evictions started before the state eviction moratorium took effect in April 2020, evictions based on more than six months' non-payment of rent, and evictions based on serious nuisance. In the meantime, the state Department of Housing, using about \$40 million in federal funds from the federal CARES Act, has initiated a major new rental assistance program intended to channel funds to landlords whose tenants have fallen behind (or further behind) in the rent during the pandemic. The first of those programs did not start until July 15, but only since early October has any significant amount of money been paid out under that program. A substantial increase of eviction filings are expected after January 1 if state and federal eviction moratoria are not extended and additional rental assistance provided.

I. The pandemic and its impact

The shutdown of court operations, as well as the eviction moratorium, have been driven by public health concerns resulting from the highly contagious and exceptionally serious nature of the Coronavirus. At the very time that courthouses were beginning to reactivate in the fall, the Coronavirus itself began to surge, undercutting efforts to expand the ability of courts to hold proceedings indoors. Courthouses are sites at which large numbers of people come together, and the housing courts are well known for crowded courtrooms and hallways. This is the very sort of environment in which a virus can spread. The risk of infection affects not only litigants but also judges, court staff, attorneys, and witnesses. The courthouses are not physically organized for social distancing, and the combination of limited space and large caseload make social distancing very difficult.

The pandemic has as a result presented serious problems in all aspects of the Judicial Branch's management of the court system. These problems have been especially difficult in the housing court system because of the large number of self-represented parties, for whom remote proceedings present very serious problems, often with due process implications. Constitutional due process requirements apply to judicial procedures. According to Judicial Branch data, more than 90% of summary process defendants, plus about 20% of summary process plaintiffs, are

self-represented. First, it has taken an extended period of time for the Judicial Branch to feel able to accommodate any significant number of people physically within the courthouses, which are not designed for social distancing. Initially, Judicial Branch staff was kept at home for public health safety reasons, but most could not effectively work from home. Physical changes to buildings, such as plexiglass dividers, remote courtrooms, and new seating arrangements were slow in coming. Second, the most obvious alternative to in-person courthouse hearings – remote proceedings – raise serious participation problems for self-represented litigants, and especially for summary process defendants, who tend to be low-income – often very low-income. There is a well-documented “digital divide” in which many low-income households – especially low-income minority households – have limited access to both the equipment and the skills needed to participate effectively in remote hearings. In practice, the major negative impact has been on defendants, i.e., tenants, since the overwhelming percentage of self-represented parties in eviction cases are defendants. The Judicial Branch has made efforts to accommodate this situation with mixed success. The Council believes that there are improvements that can be made that would reduce some of the adverse procedural impacts.

The slow and less-than-effective way in which rental assistance programs have been rolled out has added to the economic stress on the rental housing market and compounded the problems in resolving evictions. The pandemic has resulted in record levels of job loss and unemployment. In combination with limited availability and delay in the distribution of rental assistance, the pandemic has inevitably resulted in significant increases in the non-payment of rent, thereby putting the rental housing market itself at risk. The impact has been particularly severe in the most vulnerable portions of the housing market. Recent data indicates that, taken as a whole, the increase in uncollected residential rents between 2019 and 2020 has been relatively modest – roughly a 10% drop in the rent collection rate. Some data and much anecdotal evidence, however, suggests that the adverse impact on landlords has not been evenly distributed across the property owner community but rather has had the greatest impact on landlords owning smaller properties and particularly on those in urban centers. This, of course, would match the areas of lowest income concentration.

The Council recognizes that the Judicial Branch has made extensive efforts to address the problems that the pandemic has created. We make the following recommendations for ways in which the Judicial Branch should proceed over the next six months.

- Involvement of the Advisory Council: The involvement of the Advisory Council in Judicial Branch planning should be significantly enhanced. Notwithstanding the existence of the Council, which is comprised of a mixture of landlord and tenant representatives (many of whom are experienced summary process attorneys), the Judicial Branch has usually looked elsewhere for advice in both the original closing and the subsequent reopening of the housing courts. Effective participation by the Advisory Council requires more than a general invitation to submit comments. It requires some structure that permits a back-and-forth discussion that allows the Council to react and respond to actual proposed procedures. The Council urges the Judicial Branch to facilitate such a process. In particular, the Council urges the Judicial Branch, going forward, to create a regular periodic meeting schedule with representatives of the Advisory Council to help the Branch evaluate processes being implemented and review plans for the further implementation of the normalization of housing court proceedings.

- Recognition of the special needs of the housing system: While many court reopening issues are common to all parts of the judicial system, the housing court system raises special issues because of the nature of eviction cases, which make up almost 90% of the cases filed in the housing courts. While the housing court system has always attempted to accommodate self-represented litigants, the impact of the digital divide in eviction cases does not evenly spread itself between summary process plaintiffs and defendants. This is a direct result of the high percentage of plaintiffs with attorneys and the high percentage of tenants without attorneys. As a result, it is very important that the Judicial Branch take special care in how it manages virtual cases, particularly when one party is represented by counsel and the other party is self-represented. Much of this differential impact may be invisible to judges and even to clerks and mediators (e.g., an inability to sign into a court hearing ~~or~~, which can result in entry of a default or nonsuit), but it is important that the Judicial Branch be sensitive to these matters and modify its systems as necessary to accommodate them (such as attempting to contact non-appearing parties by telephone). Much of the Council's concerns and recommendations are driven by the needs of self-represented parties.
- Virtual vs. in-person hearings: In the short-term, the Judicial Branch has moved to virtual hearings. There may be no suitable alternative way to move cases forward during a pandemic. The long-term goal for summary process proceedings, however, should be a return to in-person proceedings, not an expansion to all-virtual hearings. There are inherent limitations on virtual hearings that cannot provide the same degree of due process as in-person proceedings. These can make a significant difference in the actual results of a hearing. There are at least two primary reasons for this impact. First, there may be substantial numbers of self-represented litigants who cannot adequately function remotely. Connecticut, like the rest of the country, faces a digital divide in which large numbers of lower income households lack adequate computer access and technology and may well also lack adequate computer skills. Some low income households do not have a computer or Wi-Fi at home, stable Wi-Fi connections, or even a smart phone with data capabilities. Summary process hearings in Connecticut have revealed that some self-represented litigants have difficulty in even logging or calling in to a hearing. In-home participation can be highly problematic in a household with children or in crowded living quarters with no space for privacy. Homes are not offices and life may not permit the kind of environment that is most suitable to court hearings. Out-of-house libraries, community centers, and other public facilities may not be open but, even if they are, often cannot provide privacy to the litigant and are not designed for court hearings. These problems will not go away.

Second, when parties do not use the same systems – such as one connected by video and the other by audio only – there will inevitably be inequities arising from availability of equipment. For example, cell phones are less than adequate as an alternative to computers, especially cell phones that are not smart phones. They may leave the judge and the parties unable to see each other – an important element of credibility determination – and may sometimes make it hard for a litigant to know if it is the judge or counsel who is speaking. They make the filing and examination of documents almost impossible. They present other problems as well. For example, not all parties have

unlimited minutes on their phones.

- Access to the courthouse: Self-represented litigants tend to be very dependent on access to information that is easiest for them to access at the courthouse. The housing court system has been specifically designed to accommodate self-represented litigants. See, for example, C.G.S. 51-52(d), which explicitly requires housing court clerks to provide “assistance to pro se litigants.” Such litigants, particularly summary process defendants but plaintiffs as well, require information and assistance to understand court procedures and to complete filings. There appear to have been times when some marshals have made it unnecessarily difficult for non-lawyers and even attorneys to enter courthouse buildings; and access to clerk’s offices has sometimes been unnecessarily difficult for litigants. The Judicial Branch should make sure that courthouses are easily accessible to litigants.
- Procedural improvements: During the pandemic, virtual hearings have become the primary method of hearing. On a long-term basis, however, virtual hearings should be limited to situations in which both parties have counsel and both consent to a remote hearing. The immediate goal during the pandemic (and for any longer period in which they are used) should be to adjust the system to the actual problems that have arisen in remote hearings, to anticipate the problems that are likely to arise, and to make every reasonable effort to accommodate them.
 - Courthouse access: Courthouses should be physically arranged so that litigants can safely access them for the receipt of the kind of assistance traditionally available in the clerk’s office. Litigants should not be discouraged from entering courthouses and clerks’ offices should continue to be available to answer questions and explain procedures. The foregoing premise recognizes that social distancing and mask wearing, as well as other pandemic safety measures need to be conveyed to visitors and adhered to by those entering the courthouses.
 - Emergency help phone lines: Clerks offices should have a reliable, staffed direct line that litigants or attorneys can call if they are having difficulty in accessing a remote hearing or mediation. Persons staffing such a line should be able to contact the judge, hearing clerk, or mediator to inform them when an attendee is having access difficulty. Contact should be possible even during the hearing itself, e.g., if a Wi-Fi connection is lost or a litigant cannot be heard by the judge.
 - Other contact issues: The Council has heard of many problems with reaching the clerk’s office by phone, affecting both litigants and attorneys. This has involved inconsistency of phone messages, referral to other phone numbers that are not answered, long waits on hold, hang-ups, and similar matters. This is especially troubling when contact is being attempted before a scheduled hearing. The Judicial Branch should make sure that it is always possible to get through to the clerk’s office in a reasonable manner.

- Recognition of litigant difficulties in accessing hearings: Clerks, housing mediators, and judges should all be instructed on the difficulty of access to remote hearings for some litigants and should be prepared to make accommodations to the problems that litigants may have in accessing and remaining in a hearing.
- Remote courtrooms: The development of remote courtrooms within the courthouse should continue to be a high priority, and self-represented parties should have the option to participate in a remote hearing from an appropriate room within the courthouse. One or more courtrooms should be provided with appropriate electronic equipment, and support staff should be available to assist litigants unable to use the equipment effectively. For many self-represented litigants, this may be the only way to permit effective access to hearings.
- Pre-execution hearings:¹ As long as the CDC eviction moratorium is in effect, pre-execution hearings should continue to be scheduled before executions are issued for any residential summary process action except those based on serious nuisance. ~~The CDC moratorium is a public health-based moratorium, the rationale for which is the prevention of unnecessary evictions. While it provides protection to covered tenants, its real purpose is to protect the public health as a whole from the spread of the Coronavirus. As a matter of public policy, which under federal law applies directly to cases in the courts, an exceptional~~ An effort should be made to assure that households eligible for CDC protection receive it.
- Submission of exhibits and other documents: In practice, the remote submission of exhibits requires parties to have a scanner, a fax, or equipment that will allow them to send or receive a document. The courts should realistically recognize the obstacles some parties will have with compliance. Exhibits also sometimes contain confidential information that should be redacted before filing. , Similarly, the content of fee waivers is treated as confidential and not posted on the website. The Judicial Branch should devise a better way for litigants with limited computer capabilities or knowledge to introduce evidence and other documents, should continue to protect the confidentiality of the contents of fee waiver applications, and should assure that confidential information (such as Social Security numbers) is redacted before placement on the website. The Judicial Branch should also inform litigants that they can physically deliver exhibits to the court prior to hearings. Such exhibits can then be scanned and accessed by other parties through the Judicial website.
- Sworn pleadings: The pandemic has created special problems in the filing of pleadings or other materials that must be filed under oath. Audita querela, which is used to recall an execution, must be sworn to by the applicant. So must a motion to open a judgment and a fee waiver. Parties need to be able to access

¹ There was no agreement on this bullet. A decision as to whether the proposed language should be included, modified, replaced by other language, or deleted was deferred to the next Advisory Council meeting.

court clerks if they lack other means to notarize an oath. For persons in quarantine or under medical advice to avoid indoor spaces open to the public, the clerk cannot be accessed in person. The Judicial Branch should explore ways in which signatures can be notarized by a clerk remotely or signed under penalty of perjury, including making provision, similar to 28 USC 1746 and CGS **** for unsworn statements to be made under penalty of perjury.

- Mediator involvement: Judges should be encouraged to use mediators prior to any hearings, including pre-execution hearings. In addition, mediators should, if practicable, attempt to reach out to self-represented parties, preferably in advance of hearings, so as to minimize defaults and assure an equal opportunity to participate.
- Mediator role: Mediators should have knowledge of state and federal policies and programs that impact evictions or provide rental assistance, including in particular eviction moratoria, rental assistance programs, and housing relocation programs. In regard to eviction moratoria, mediators should understand what they do and do not cover. In regard to assistance programs, in addition to promoting knowledge of the programs, the Judicial Branch should develop internal mechanisms, in cooperation with state agencies, that make it easier for mediators to access such programs in order to help resolve eviction cases and should encourage the referral to those programs when appropriate in mediating a case, much as foreclosure mediators can link the parties to the state's Emergency Mortgage Assistance Program (E-MAP). Mediators should also assure that parties are aware of eviction restrictions and assistance programs that are related to the resolution of eviction cases.
- COVID-related forms and standing orders: The Judicial Branch should provide additional or improved COVID-related forms and should, through standing orders or otherwise, direct when they should or must be used. This is important so that plaintiffs can properly prepare complaints and is particularly important in default situations. For example, the Branch has prepared a form affidavit (JD-HM-0041) by which a plaintiff can allege compliance with the federal requirements of the CARES Act for "covered properties." Instead of a plain language explanation of what properties are "covered," it cross-references to a section of the federal statute which is nearly impossible for a lay person (or an attorney) to figure out. For the form to be useful, the coverage should be explained in plain language.
- Post-pandemic planning: The Judicial Branch should develop and implement a comprehensive plan for restoring the historic speed of processing within the housing court system. The requirement of social distancing inherently requires the Judicial Branch to avoid congestion within the courthouses, which limits the number of in-courthouse cases that can be scheduled on any day. At the same time, for parties with no or limited electronic capacity to be fairly heard electronically, access to the physical court location to obtain information and to present their case, or other realistically workable solutions, must be provided.

The Judicial Branch should develop a plan that recognizes both elements. The Advisory Council should be included in the development of such a plan.

- Public access: All court hearings should be easily available to the public, much as the public could sit in any open courtroom. There should be a simple system by which members of the public can access an observation-only link to hearings.
- Private conversations: A method should be developed by which attorneys can speak privately with their clients and co-parties can speak privately with each other in mediations and in hearings. Microsoft Teams does not seem to make provision for private break-out groups. This is a real problem if the attorney and the client are not participating from the same space. It is also an obstacle to mediators meeting separately with each side during mediation. For example, if a mediator could be reached by phone during a mediation, it would be possible for one side to have a private conversation with the mediator without the cumbersome process that results from parties having to go out of the meeting and then get back in again at a fixed time.
- Remote participation assistance: Clerks and mediators should play a more active role in making sure that all parties understand how to get into remote mediations and hearings. Clerks, mediators, and judges should be made to understand that the Teams App is not easy to use for people unsophisticated in remote meetings. In fact, it is difficult to access without a relatively up-to-date smart phone or computer.
- Procedural adjustments: A comprehensive study should be conducted as to how the digital divide interferes with the ability of some self-represented litigants to participate in court proceedings; and appropriate procedural adjustments should be made to ameliorate any problems which are identified.
- Notice by mail: Mailed notices of hearings should recognize the existence of significant delays in both the mailing of notices within the court system and in the actual delivery of mail. At least 14 days' advance notice should be allowed except where otherwise required by statute. The Council is aware of cases where notices did not arrive until the day before, the day of, or the day after the hearing.
- Electronic notices: The court docket should allow at least attorneys and parties to access the Teams link directly from the portion of the case docket sheet near the date and time of the scheduled hearing. In addition, it seems that the dates and times of hearings are not permanently embedded in hearing notices and sometimes disappear after the notice is opened or if it is forwarded to someone other than the original recipient. This situation should be corrected.
- Plain language: All notices, including computer-generated notices, should be reviewed for pro se adequacy. Plain language is a combination of content and formatting. Pro se notices should not only use clear and simple language, but also use font size, bolding, and design to make the most important parts easily

readable.

- Location of computer guides: The Judicial Branch’s “Quick Reference Guide” for remote hearings is an improvement over the earlier long version, but it remains hard to find. A link to the guidelines should appear clearly identified on the entry page of the website.
- Adequacy of computer guides: The Guidelines, unfortunately, assume a workable system and do not address many of the problems that actually arise for self-represented litigants. A plain language form should be developed to address such questions as: “What do I do if I can’t get into a hearing?” “What if my Wi-Fi connection is lost?” “What if I don’t understand what someone in the hearing says?” “What if I haven’t received a link, or if I can’t find the email that included it?” “What if my phone minutes run out before or during a hearing?” “How do I submit evidence?” “How do I get to see what the other side submits?” “What if I have witnesses? How do they get into a hearing?”
- Access to information on attorney assistance: The due process issues surrounding access to virtual proceedings make it more important than ever that housing court clerks should offer referral information to legal aid or other legal assistance programs that can help unrepresented litigants.
- Limitations of email: The Judicial Branch should recognize that email can be an unreliable way to reach self-represented litigants. Many people have email accounts that they do not monitor regularly, and many low-income households without computer access must go to a library or other location to read emails. Emails from the courts should be clearly marked as coming from the court. For example, instead of showing the name of the clerk who sent the notice, the email should come from “Housing Court” or “Superior Court” so that litigants don’t ignore emails that otherwise appear to be spam.

II. Other housing-related matters

- Expansion of rental assistance programs before and during eviction proceedings: During and after the period of moratoria and limited evictions, it is critical that the state increase funding for and expand the availability of rental assistance, both early in the process so as to make it unnecessary to file evictions and in the eviction process itself so as to expand the types of settlements that can be negotiated. Although the pandemic began in March 2020 and the state’s major pandemic rental assistance program (the Temporary Rental Housing Assistance Program – TRHAP) began in July, it was October – seven months after the pandemic started – before more than a handful of payments were made to landlords. These delays have resulted in the accrual of larger arrearages, thereby making the \$4,000 cap in the project an obstacle to settlements. Moreover, the state appears to have no plan to create a true eviction prevention program for pending evictions.
 - TRHAP: Although the increases in funding allocations for TRHAP have grown from \$10 million to \$40 million since the program started, TRHAP will require significant

increases in funding, in part to accommodate additional applicants and in part to allow for an increase in the cap for payments in any one case. At the time of this writing, TRHAP applications have exceeded the allocated TRHAP budget, and the program is temporarily (and permanently unless funding is increased) closed to new applicants. Massachusetts and New York now allow payments of up to \$10,000 in their programs. The state should also review the sufficiency of administrative support for the program and should explore ways it can be used to help resolve active evictions. In addition, it should publicize this program far more widely so that both landlords and tenants will be more aware of its existence. Unfortunately, shortly after the program was modified to allow landlords to apply behalf of tenants, the program's was suspended because of exhaustion of funding.

- Eviction prevention: In order to minimize residential evictions not covered by the moratorium, it is essential that the state activate a true eviction prevention program for tenants in the eviction process and at immediate risk of eviction. The currently planned program is expected to be limited to eviction of tenants most likely to end up in an emergency shelter if evicted, who constitute only a small percentage of all cases in which the tenants have no permanent location to which to move. This program, which should be based on programs previously operated by the state, should also be capable of providing transition assistance to tenants if retention in place is not a viable option.

○ Expansion of reasons for eviction²: Currently the Lamont moratorium limited evictions to: serious nonpayment of rent; serious nuisance; and, lapse of time where the landlord has a bona fide intention to utilize the premises as his principal residence. However, these limitations do not reflect the real life circumstances a landlord faces. For example, a landlord may have a serious nonpayment case against one tenant, but the other tenant is not on the lease and therefore, the eviction against them would be for once having the right or privilege to occupy, and no longer having such right. Nuisance cases are also hampered by the governor's limiting language. For instance, nothing can be done about a smoker in a non-smoking elderly complex or a person bringing a pet into a no pet property, or even a squatter who never had the right or privilege to occupy the premises. The governor should allow additional grounds to evict noncompliant tenants, tenant's without the right to occupy etc.

Specific Clinton proposed additions to EO 9H:

Section 47a-23 of the Connecticut General Statutes is modified to provide, "(g) No landlord of a dwelling unit, and no such landlord's legal representative, attorney at-law, or attorney-in-fact, shall, before January 1, 2021, deliver or cause to be delivered a notice to quit or serve or return a summary process action, for any reason set forth in this chapter or in sections 21-80 et seq. of the Connecticut General Statutes, except for: (1) nonpayment of rent due on or before February 29, 2020; (2) for serious nonpayment of rent as defined herein; (3) for serious nuisance as defined in section 47a-15 of the Connecticut General Statutes; ~~(4) for once having the right or privilege to occupy the premises and no longer having the right or privilege to occupy the premises in any instance where the occupant's right to occupy derived~~

² There was no agreement on this bullet. A decision as to whether the proposed language should be included, modified, replaced by other language, or deleted was deferred to the next Advisory Council meeting.

~~from the tenancy of another who is subject to termination as set forth in (1), (2) or (3), (6) or (7) of this section; (5) for never having the right or privilege to occupy the premises (6) for breach of the terms of the lease or state statutes, provided the landlord has complied with the provisions set forth in 47a-15~~ or, (7) provided the notice to quit is not delivered during the term of any existing rental agreement, for a bona fide intention by the landlord to use such dwelling unit as such landlord's principal residence. For the purposes of this subsection, 'serious nonpayment of rent' means a rental arrearage equal to or greater than six months' worth of rent due on or after March 1, 2020, which shall exclude all other costs, fees, attorney fees, and other charges arising from the tenancy."

- Legal representation: A number of court locations around the country have experimented with providing indigent summary process defendants with attorneys. In Connecticut, the Connecticut Bar Association and the Judicial Branch itself has endorsed such a proposal. The housing courts have also experimented with "lawyer for a day" programs. The Judicial Branch should actively work to establish programs that will result in attorney representation for indigent parties, and the legislature should implement such programs.
- Criminal database improvements: The Council has been told that the criminal court system is computerizing its data in a manner similar to the civil side. The Council urges any such computerization to include a way to identify and isolate the handling of housing cases in the criminal system.
- Police training manual: The Council encourages the Chief State's Attorney, with the Advisory Council's participation, to review and update the police training manual for housing. The Council has been asked in particular to look at the way in which the manual addresses apartment access problems related to the issuance of temporary restraining orders and to the treatment of guests. Review of the manual should also include possible systemic racism issues specially relating to housing matters.
- Evictions when courthouse closed: The Council has been asked to review how litigants can communicate with the court system when actual evictions occur at a time that the courthouse is closed (e.g., on a weekend or before 9:00 am in the morning).
- Notice of fee waivers: Questions have been raised as to the extent to which low-income litigants are informed in the clerk's office of their right to apply for a fee waiver.
- Consultation with Advisory Council: The Council urges the Judicial Branch to approach the Council more proactively in inviting input into its decision-making. While the Council has a standing invitation from Judicial to offer advice whenever it wishes, the Council cannot provide timely advice unless it knows what the Judicial Branch is planning or what issues it is actively addressing.
- Clerks' office structure: The Judicial Branch should identify clearer lines of responsibility for housing cases for the Clerks' Offices in New Britain and Waterbury and in the non-housing court districts. Any clerk's office handling housing matters that does not have a formally-designated clerk for housing matters should have a clerk or assistant clerk who is assigned to supervise housing matters. Such employees should be trained by and responsible

to the Chief Clerk for Housing Matters so as to assure consistent procedures and policies throughout all courts handling housing matters. Parties will thereby have access in all locations handling housing matters to a clerk trained in housing law to answer questions and provide assistance to self-represented litigants.

- Small claims data: In small claims actions, a sortable field for the address of affected properties;
 - In criminal cases, the posting of full court orders on the web, including all conditions related to those orders;
 - The ability to issue judgment notices promptly and with separate copies to each defendant;
 - The ability to track the history of attorney appearances for parties and of continuances and off markings.
 - The ability to identify civil cases as being housing cases.
 - The adequacy of notices to self-represented and non-appearing parties.
- Case processing data: The extended shutdown of the housing court system has made it impossible for the Council to do its usual biennial analysis of the speed of processing summary process cases. In its 2019 report, based on data from July 1, 2017 to June 30, 2018, the Council noted the significant slowing down of the processing of summary process cases in some housing court districts. Because the data for the first half of 2020 was distorted by the pandemic, this report uses Calendar Year 2019 for the most recent full-year data. It shows generally some improvement from the FY 2018 data, with a reduction of the median disposition time by about 10% statewide. Hartford, Waterbury, New Haven, and Norwalk all showed reductions. Only Bridgeport had a significant increase. It is not clear how that data will compare with data for 2021 when that becomes available, since many questions remain as to the continuing impact of the pandemic and how cases will be handled.
- Anticipated Advisory Council projects: The Council has several projects in process that it expects to complete in 2021. They will be submitted to Judicial when completed. These include:
 - Forms: The Advisory Council has identified a number of housing forms that would benefit from revision and updating. These include the summary process answer, the motion to open, and the motion for stay of execution. The goal should be both legal accuracy and ease of reading. The Council expects to present recommendations soon.
 - Magistrate small claims manual: The Council's preliminary update of the manual was completed in 2019. The Council is concerned, however, that it is not in fact being used by magistrates. The Council requests that Judicial give specific guidance to magistrates on its use as a resource. The full update of the manual by the Council is now scheduled for late 2021.
 - Data gathering capacity: The Council continues to work to develop computer programs that will better allow sorting of data so as to better understand the actual operation of the housing courts. For example, the data system now makes it possible to cumulate and analyze information about the representation of parties by counsel in

summary process action. The Council recommends that, in conjunction with this effort, the Judicial Branch develop guidelines for clerks in regard to the uniform inputting of data.

- Use of the Judicial database for tenant screening: The Council remains concerned about the ways in which the Judicial Branch database is used for residential tenant screening, especially when used without professional guidance. In practice, the appearance of a tenant name in a judicial records data search can often result in a denial of an apartment, without any further investigation. The Council will continue to work on suggestions to prevent inappropriate usage. Areas to be looked at include:
 - Appropriate notices in Case Look-Up to warn users about the limits of the data system for tenant screening
 - A review of the duration of time during which cases remain on the data base, including consideration of different time limits based on the nature of the disposition and the ground of the eviction.
 - An examination of the differences in access between use of publicly-available eviction data by tenant screening services and by individual property owners.

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