

# GUARANTEEING A RIGHT TO COUNSEL IN EVICTION PROCEEDINGS

Although the justice system guarantees legal representation for all defendants in criminal proceedings, regardless of their ability to pay, in South Carolina, individuals going through eviction proceedings do not have a right to legal counsel. Ensuring a right to counsel, funded by the state legislature, would make South Carolina's eviction processes fairer and more balanced, save public money associated with social services, and ensure legal representation for the most vulnerable South Carolinians.

*“Charleston is home to some of the oldest free Black communities in South Carolina, on the lands where ‘40 acres and a mule’ was a brief program of liberatory land reform. In 2024 and beyond, tenant protection policies like a right to counsel help combat the racial wealth divide.”*

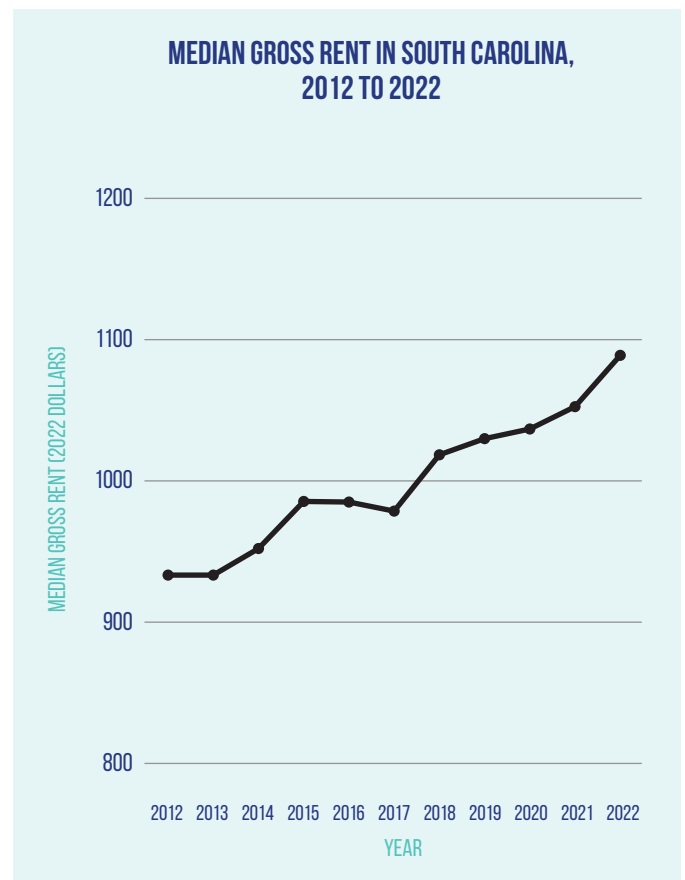
**– Kenya Cummings,  
Executive Director,  
South Carolina Housing  
Justice Network**

## UNBALANCED EVICTION PROCEEDINGS:

In nearly all eviction proceedings in South Carolina, the renter being evicted has no legal representation. This stacks the deck against them throughout their proceedings, increasing their likelihood of being evicted—which can have a destabilizing effect on their housing status, employment prospects, and financial well-being.

## RISING RENTS AND THE EVICTION CRISIS:

As a result of the high level of poverty and the high (and rising) cost of housing in South Carolina, thousands of South Carolinians have evictions filed against them every month—in Charleston County alone, more than 30,000 evictions have been filed since March of 2020, averaging more than 1,000 every month. Being evicted is a misfortune that can be caused by a variety of factors—including chronic poverty, personal health crises, loss of employment, sudden rent increases, and many other factors beyond one's immediate control—and often leads to a cascade of subsequent misfortunes. For instance, having an eviction on one's record makes it hard to find new housing, the urgent need to find new housing can make it hard to maintain employment, and as a result, the crisis can cause temporary or chronic homelessness. Despite these high stakes, in 2021, 99% of renters being evicted in South Carolina had no legal representation. Moreover, 45% of South Carolinian renters are considered cost-burdened, and according to a metric based on the percentage of renters who are behind on rent, South Carolina is the state with the highest percentage of renters (21.1%) at risk of eviction (many other Southern states are at the upper end of the spectrum). Without adequate legal representation for renters, this eviction crisis risks putting individuals and families in jeopardy and straining South Carolina's social safety net.



Source: American Community Survey 1-year estimates, 2012 - 2022

### Resources

- “South Carolina Renters Should Have the Right to Legal Counsel When Facing Eviction,” ACLU of South Carolina, 2022.
- “The Estimated Economic Impact of an Eviction Right to Counsel in South Carolina,” Stout Risius Ross, LLC, 2022.
- Eviction Tracker, Civil Court Data Initiative, Legal Services Corporation.

– Authored by Simon Palmore

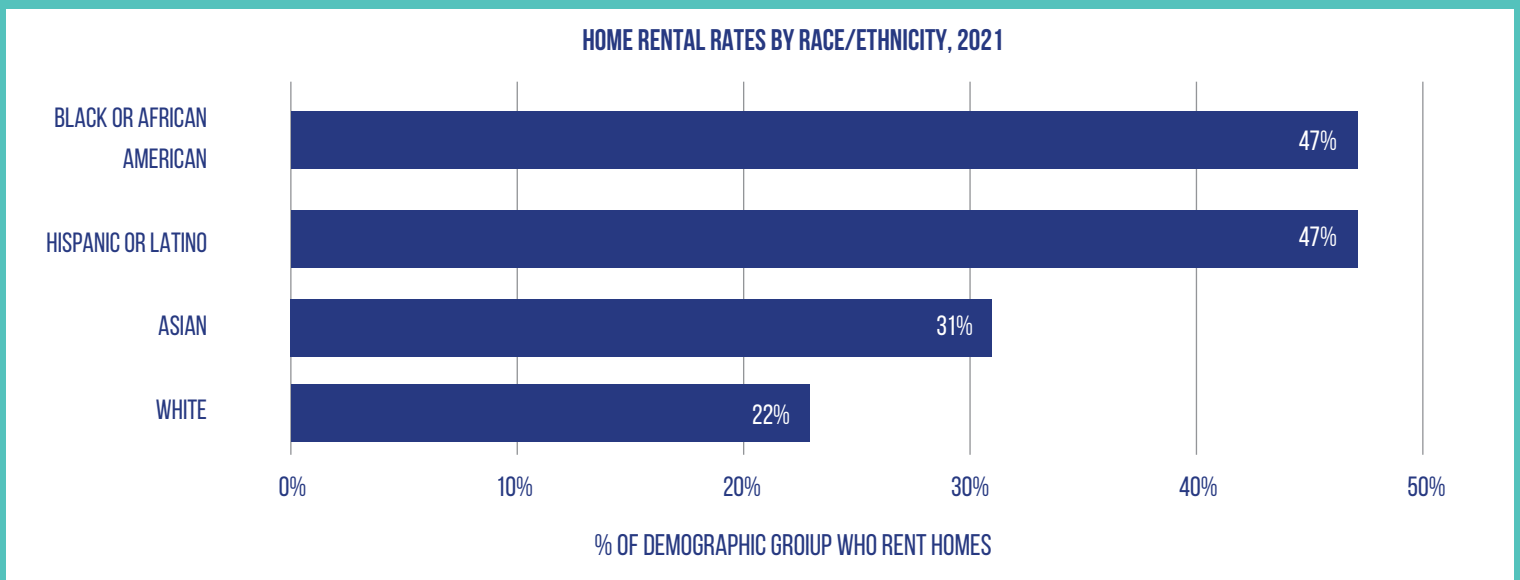


## LACK OF REPRESENTATION FOR RENTERS:

Although right to counsel for criminal proceedings is available in all fifty states and the District of Columbia, right to counsel for eviction proceedings is only guaranteed in three states (Connecticut, Maryland, and Washington) and fifteen cities nationwide. The lack of legal representation for renters is particularly harmful in South Carolina given the state's ongoing eviction crisis, which is caused by a combination of chronic poverty, low wages, and increasingly expensive housing.

## RACIAL DISPARITIES IN RENTING:

By its very nature, this issue impacts the most vulnerable and under-resourced individuals. In South Carolina, Black and Latino people are more than twice as likely as white people to be renters, and among all renters, Black and Latino renters are more likely to be cost-burdened. Black and Latino South Carolinians are more than twice as likely to be below the poverty line than white South Carolinians, which clearly outlines the eviction crisis as an issue that disproportionately affects low-income Black and Latino communities.



*Source: American Community Survey 5-year estimates, 2021*

## POLICY INTERVENTION: RIGHT TO COUNSEL IN EVICTION PROCEEDINGS

A state law guaranteeing a right to legal counsel for eviction proceedings and appropriating enough funding to make this legal counsel cost-free would ensure that all renters have access to legal representation that will defend their interests while they are at risk of eviction. Investing in such a program will reduce costs for the state government by way of reducing strain on South Carolina's social services—the ACLU of South Carolina estimates that a \$7.2 million annual investment will yield up to \$21 million in annual savings. Aside from the monetary costs associated with social services, establishing a right to counsel for South Carolinians at risk of eviction would also mitigate the extensive human cost of the eviction crisis, including chronic poverty, homelessness, and disruptions to employment and education. All in all, ensuring a universal right to counsel during eviction proceedings will make these proceedings fairer and more efficient for all parties involved—renters, landlords, and South Carolina's judicial system.