

# Minnesota State Bar Association

## HF125/SF98: *Right to Counsel for Public Housing Tenants in Breach of Lease Cases*

### Background

- Public housing provides safe rental housing for poor, elderly, and disabled individuals – the most vulnerable members of society.
- Public housing was created by federal law and is funded with federal allocations.

### This bill provides appointed counsel for public housing tenants in breach of lease cases

- Breach of lease cases can involve violations of management rules, claims of minor criminal activity, and disputes between tenants and property managers or other tenants, all of which often raise complex questions of law and fact.
- The right to counsel would **not** apply to nonpayment of rent cases.
- This proposal is narrowly targeted to assist the most vulnerable tenants in the most complicated eviction cases. (Research indicates there are approximately 60 breach of lease cases involving public housing tenants in Minnesota annually.)

### This bill would level the playing field

- Appointed counsel would put public housing tenants on more equal footing with public housing authorities, which are represented by publicly funded attorneys.
- Courts would appoint lawyers who have public housing defense training or experience, or who are supervised by attorneys with such a background.
- Public housing evictions involve rights protected under the Minnesota and United States constitutions, and may involve issues such as search and seizure, self-incrimination, and elements of alleged crimes.
  - ***Legal arguments related to these issues are too complex to be understood and effectively argued by self-represented individuals.***

### Why is this proposal necessary?

- Legal aid and pro bono programs can't come close to meeting tenant representation needs in the thousands of eviction actions filed every year.
- Appointed counsel will help public housing tenants avoid eviction or secure enough time to move, which will stabilize communities and reduce burdens on publicly funded county shelters and emergency assistance.
- This concept was a recommendation in the Report to the Legislature from the House Select Committee on Racial Justice.