

In the Indiana Supreme Court



In the Matter of the Indiana Eviction Task
Force

Supreme Court Case No. 21S-MS-422

Order Establishing Pre-Eviction Diversion Program

On September 13, 2021, this Court issued [an order establishing the Indiana Eviction Task Force](#). The order directed that task force to provide an interim report with recommendations to implement a statewide pre-eviction diversion program to enable faster distribution of rental assistance to landlords and tenants. The Court has received [that report](#) and, based upon the findings and recommendations provided, **hereby ORDERS as follows, effective November 1, 2021, and until further notice from this Court as to the sunset date of this program:**

1. In any residential eviction action filed in any Indiana court involving a claim for non-payment of rent, the court **shall**
 - a. advise the parties—at the first hearing or, in actions in progress prior to the effective date of this order, at the next hearing—of the availability of pre-eviction diversion resources, including emergency rental assistance and the benefits of seeking emergency rental assistance, the availability of legal assistance, and the availability of [this Court's free Landlord and Tenant Settlement Conference Program](#) or any free local equivalent program, and
 - b. ask the parties if they are interested in—or in the process of—pursuing rental assistance and/or participating in a settlement conference.

The Task Force has provided a model advisement for this purpose, which is attached to this order as **Exhibit A**.

2. If both parties agree to seek rental assistance or participate in the Settlement Conference Program:
 - a. The eviction proceeding **shall** be stayed for ninety days.
 - b. The court **shall** provide the parties with a completed case management order, which **shall** include status conferences at thirty days and sixty days to monitor progress.
 - c. The court may lift the stay early if it determines at a status conference, or following a motion filed by any party,
 - i. that a party is no longer actively following the case management order or participating in the pre-eviction diversion program in good faith; and
 - ii. in the interest of justice, the case should proceed.

- d. All court records related to the eviction **shall** be made confidential unless
 - i. the court determines at a status conference, or following a motion filed by any party,
 1. that a party is no longer actively following the case management order or participating in the pre-eviction diversion program in good faith; and
 2. in the interest of justice, the case should proceed; or
 - ii. the court finds, after a hearing, that one or both parties have violated a settlement agreement; or
 - iii. the procedures set forth in Rule 9 of the Rules on Access to Court Records are followed.
3. If the parties resolve their disputes through participation in the pre-eviction diversion program, the court can dismiss the case or the parties can file a diversion agreement, agreed entry, or agreed judgment.
4. Participation in this program does not bar the plaintiff from filing future claims against the defendant, including future eviction proceedings, for future events or acts forming an independent basis for the claim.
5. The Office of Judicial Administration and courts are authorized to provide otherwise-confidential court records to Emergency Rental Assistance providers to facilitate the matching of parties to ERA applications.
6. The Office of Judicial Administration **shall** create training materials to implement this order, in addition to making resources available for parties [online](#).

Done at Indianapolis, Indiana, on ^{10/22/2021}_____.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.

Pre-eviction Diversion Program Advisement and Dialogue

1. Emergency rental assistance is available to assist with nonpayment of rent and participation in the rental assistance program can be helpful to both landlords and tenants.

2. The emergency rental assistance program for this area is: (insert name program here).

[Ask if the parties have applied for rental assistance with this program. If yes, inquire as to the status of the application then continue below with item 6. If no, then continue with item 3.]

3. There are certain eligibility requirements, including that the tenant's household income is at or below 80% Area Median Income or household income meets the HUD definition of a low-income household. The (insert name program here) will determine eligibility for assistance. To make this determination, both landlords and tenants need to complete portions of the program application.

4. If you are eligible for emergency rental assistance, the funds can help the landlord receive past due rent, future rent, or reduce your outstanding balance owed, and may resolve your dispute with your landlord. Utility assistance may be available in some programs.

5. If you are not eligible, there may be other community resources for rental assistance that can help both parties and possibly resolve this dispute.

6. Active participation in the Pre-eviction Diversion Program will result in this case being marked confidential. When a case is marked confidential, it is no longer available on mycase.in.gov. The case may remain confidential during and after the program as long as there are no defaults by the tenant.

7. If you both agree to work together to seek rental assistance, then this case can be rescheduled to allow you to complete the application process and receive a determination of eligibility. The case management order will have your court dates listed and having your cell phone number in the court file can allow for text message reminders of these dates.

[Ask each party if they agree to participate in the rental assistance program. If both agree to the program, collect updated cell phone numbers to allow for text message reminders, discuss the time frame in the case management order, and provide the

completed case management order that includes program information/contact information, deadlines, and future court dates. Next, proceed with the dialogue below.]

8. There is a free settlement conference program offered by the state that can assist in discussing possible resolutions to this case. If you both agree to participate in this service, then this case can be rescheduled to allow participation in the conference. The case management order will have your court dates listed and having your cell phone number in the court file can allow for text message reminders of these dates.

[Ask if the parties have participated in the settlement conference program. If so, then proceed to item 9 below. If not, ask each party if they agree to participate in the settlement conference program. If both agree to the program, collect updated cell phone numbers to allow for text message reminders, discuss the time frame in the case management order, and provide the completed case management order that includes program information/contact information, deadlines, and future court dates.]

[If either decline to participate in the above programs, continue with item 9 below and proceed with the case as you would normally.]

9. If you are not represented by an attorney and would like legal assistance, please contact one of the following resources for help: (insert local list).