



# Too Fast, Too Easy.



**How Indiana Courts  
are Fueling Our  
Eviction Crisis**

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# Executive Summary

Indiana is in an eviction crisis. Each year, nearly 70,000 eviction cases are filed, affecting more people annually than live in the state's third-largest city. While a shortage of affordable housing sets the stage, the crisis is intensified by a deeper problem: Indiana's eviction process has become too fast and too easy.

Unlike most legal disputes, which move slowly and allow for careful consideration, eviction cases in Indiana are rushed through at extraordinary speed. Tenants are often given only a few days' notice before their hearing, and many hearings last less than five minutes. Families facing the loss of their homes, one of the most consequential decisions a court can make, are often afforded less time and care than minor disputes in other parts of the legal system.

The consequences ripple far beyond the courtroom. Evictions destabilize families, cause children to suffer educational and health setbacks, and push many into unsafe or exploitative housing. The stain of an eviction filing often follows tenants for years, making it harder to secure future housing even if the case was dismissed. In practice, the courts have become a driver of homelessness, family trauma, and community instability.

What emerges is a picture of a justice system that, when it comes to eviction, has become too fast and too easy. Indiana has the opportunity, and the responsibility, to correct course. The following reforms offer practical steps to slow down the process, ensure greater balance, and restore public confidence in the courts as fair and impartial arbiters.

## TOO FAST, TOO EASY

To address the crisis, this report outlines practical reforms Indiana's courts could adopt to bring greater fairness and balance to eviction proceedings:

By embracing these reforms, Indiana's courts can show that fairness, not speed or convenience, is at the heart of justice.

1

**Give tenants more time to prepare.** Eviction hearings should not be rushed. Courts should provide a meaningful window, at least three weeks, for tenants to respond before a case moves forward.

2

**Require mediation before eviction.** Landlords and tenants should have the chance to work out disputes, with court-supported mediation both before a case is filed and before a judgment is entered.

3

**Protect tenants in unsafe housing.** Tenants should be allowed to pay rent into a secure account if their landlord fails to maintain safe and livable conditions, ensuring accountability and preventing evictions.

4

**Keep eviction filings private until resolved.** Records should remain confidential until a final judgment is made, preventing tenants from being unfairly blacklisted for cases that may be dismissed.

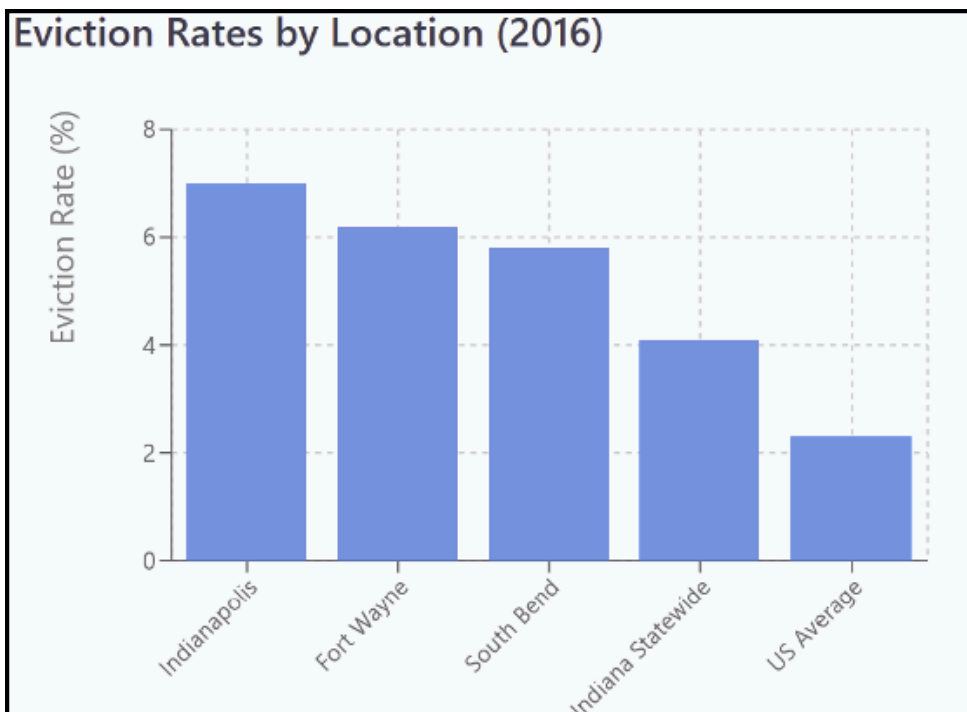
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## Introduction | “An Extension of the Residential Rental Business”

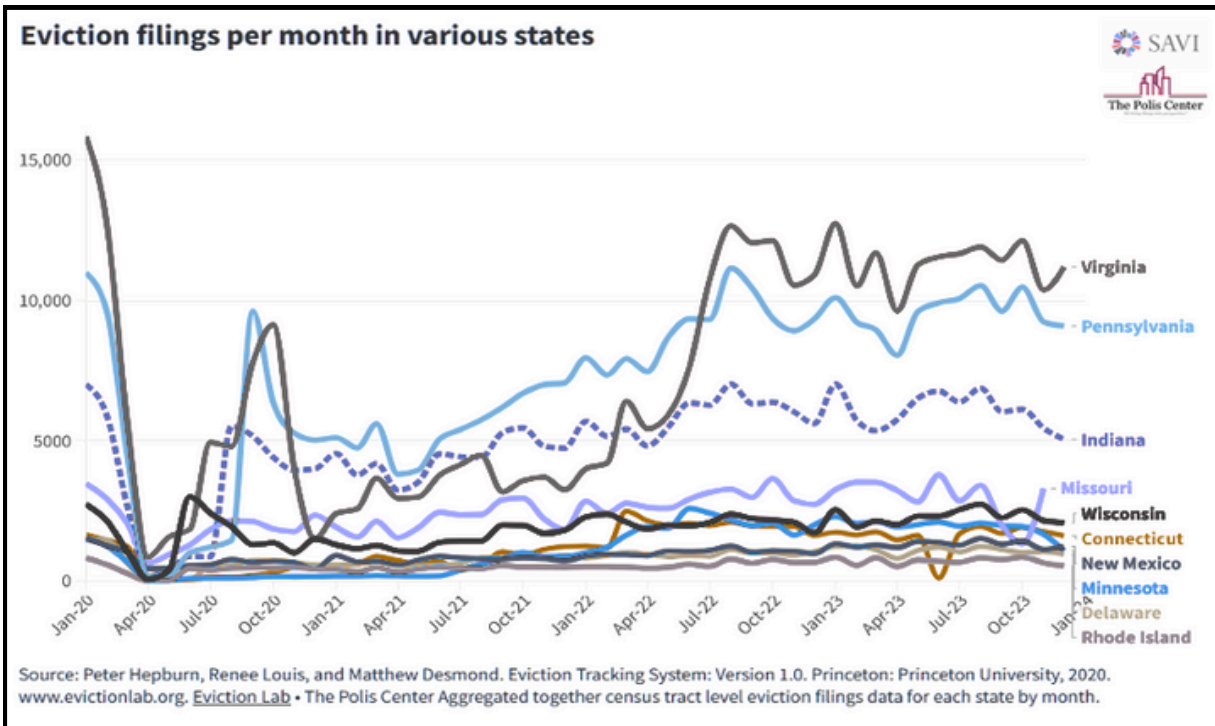
Each year, nearly 70,000 eviction cases are filed in Indiana’s courts.<sup>1</sup> Behind each of those formal, legal filings is true human struggle. With the average household size being 2.5 people, the number of Hoosiers facing court-ordered eviction each year is so large that together they would make up the third largest city in the state.<sup>2</sup>

National eviction data is not fully available, but the existing comparisons suggest Indiana’s problem is unusually dire. In 2016 reports, Fort Wayne, Indianapolis, and South Bend all ranked in the top twenty cities in the U.S. for eviction rates. For example, in Indianapolis in 2016, an average of nearly 32 households were evicted every day—the worst rate for U.S. cities with a population over 500,000.<sup>3</sup> During that year, seven of every 100 Indianapolis renting households were evicted—a situation that led local officials to declare an eviction crisis even before the COVID pandemic.<sup>4</sup> Statewide, our pre-pandemic eviction rate (4.1%) and eviction filing rate (8.5%) were higher than neighboring states.<sup>5</sup>



## TOO FAST, TOO EASY

At first glance, Indiana’s high rate of evictions is puzzling. We have an affordable housing crisis, of course.<sup>6</sup> But so do other states with far higher rental housing costs yet far less evictions.<sup>7</sup>



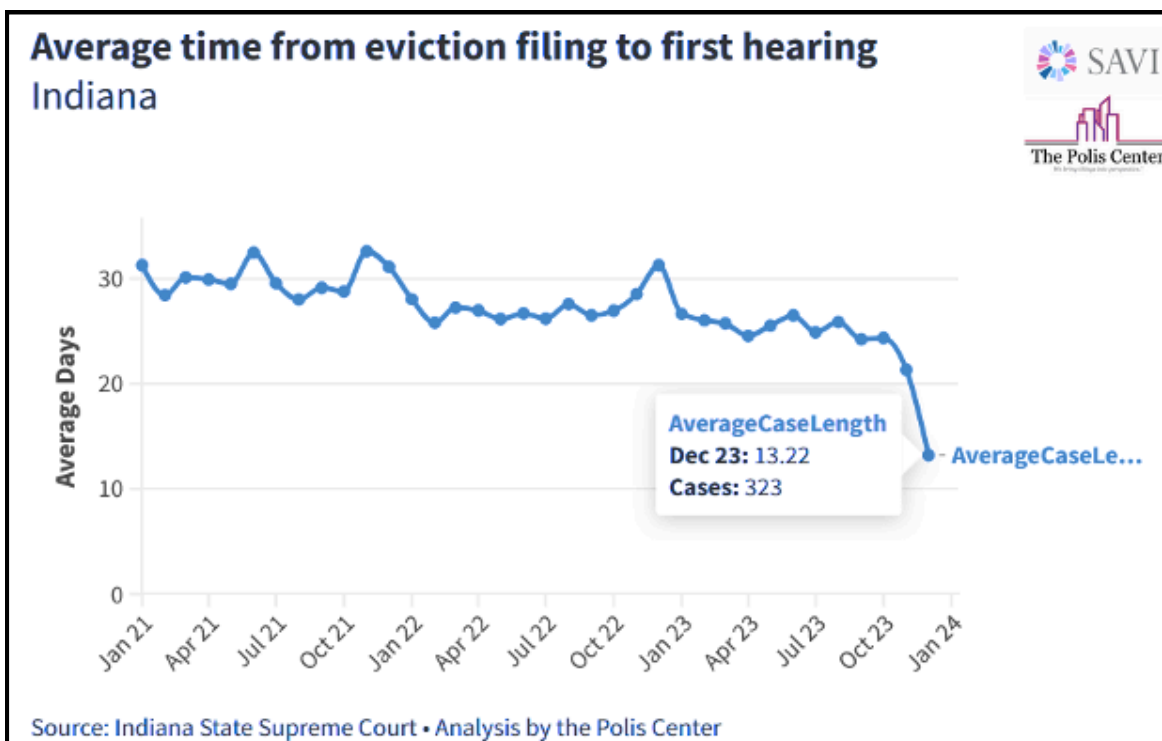
The disturbing truth is that we push more families out of their homes in Indiana in significant part because our courts choose to make evictions remarkably fast and easy. In fact, the landlord website TurboTenant ranks Indiana the #4 most landlord friendly state in the nation, specifically citing “Landlord-leaning small claims courts.”<sup>8</sup> Too often in our state, as Matthew Desmond, sociologist and Pulitzer Prize-winning author of *Evicted*, and colleagues have stated, “Courts act more like an extension of the residential rental business than an impartial arbitrator between landlords and tenants.”<sup>9</sup>

This approach harms Hoosier renters, our broader community, and our justice system as a whole. This report reviews the “Too Fast, Too Easy” crisis and suggests four reforms that Indiana’s courts could adopt to remedy the ongoing injustice.

# Too Fast

We have all heard that wheels of justice turn slowly. That maxim holds true in almost every legal case. Automobile accident cases, family law disputes, and even criminal cases take months, if not years, to complete.<sup>10</sup>

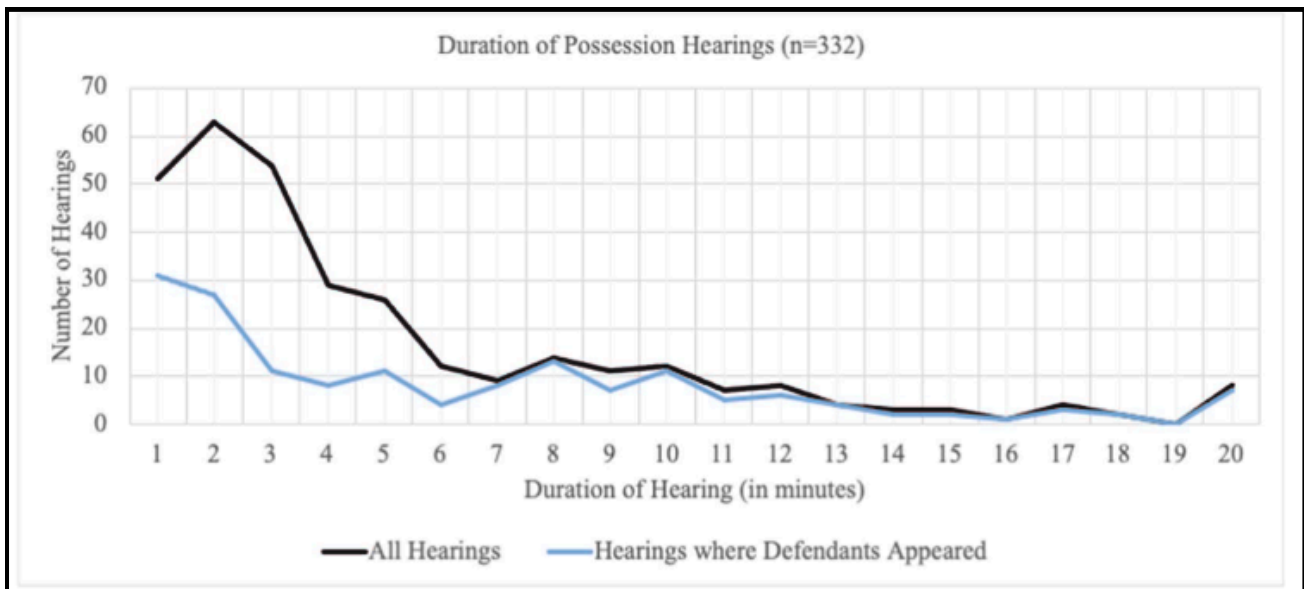
But tenants in Indiana eviction proceedings face rapid-fire court proceedings that have no parallel in our civil or criminal justice system. With just a few days' notice, Indiana courts can and do order tenants to be forcibly removed from their home.<sup>11</sup> The average length of time between an eviction filing and the first court hearing is now less than 20 days, and has been getting shorter for the past several years.<sup>12</sup>



Compare that speed to foreclosure cases, where like evictions families face the loss of their homes. Homeowners at risk of homelessness get access to settlement conferences and given the protection of a far more extended process than given to renters.<sup>13</sup> The same is true in other civil cases in some Indiana counties, where most parties must submit to mandatory mediation before a judge will decide the case.<sup>14</sup> These protections help ensure fair settlements but also give people time to figure out next steps.

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For tenants facing rocket-pace evictions, the process somehow accelerates even further once they reach a courtroom. Notre Dame School of Law clinical professor emerita Judith Fox and Katherine Wines, then a Legal Navigator for Pro Bono Indiana, tracked the eviction process for 655 filings in St. Joseph County Small Claims court over a five-month period in 2023. They found that nearly two-thirds of the eviction hearings observed concluded in five minutes or less, with tenants appearing in only 44% of those under-five-minutes hearings, a low turnout that reflects tenants' sense of confusion and intimidation about the court process. "Even when tenants are present, they have scarcely more than two minutes to present their defense against eviction," Fox and Wines wrote.<sup>15</sup>



Judith Fox and Katherine Wines, *Coding Evictions: St. Joseph County Court Watch Study*

Media reports chronicle similar court scenes, including a Marion County Small Claims court docket that had almost 300 eviction and housing disputes set for the same day. "The courtroom became an emotional eviction factory where the decisions seemed all but pre-determined," the report stated. "The judge, who deferred to landlords most of the time on the timeline for moving out, had just minutes to hear most cases. One after another, tenants who had been failing to pay rent were told they had until Tuesday (the hearings were held on a Thursday) to move out."<sup>16</sup>

## TOO FAST, TOO EASY

For advocates, media, and the general public, the quest for remedies to Indiana’s eviction crisis has understandably been focused on legislative changes.<sup>17</sup> But Indiana court procedures are fueling our state’s eviction crisis, and Indiana judges have the power to change those procedures. By using their power to establish rules of court proceedings, Indiana courts can and should restore dignity and fairness to the process.<sup>18</sup> Indiana courts should ensure tenants have adequate time to prepare for their hearings.

As noted above, evictions routinely occur within days of the tenant first learning about the case filing, moving far more quickly than virtually any other Indiana legal matter. Indiana courts can remedy this injustice by aligning eviction proceedings with all other civil matters<sup>19</sup> by not allowing any hearings or non-emergency rulings to occur until at least 21 days after the tenant receives notice of the claim against them.



## TOO FAST, TOO EASY

The rush to judgment is often deeply damaging. Even an extra week or two before an eviction case is heard in court could be the time needed for another paycheck or a tax refund to arrive, or a relative or social service agency to come through with the rent owed. As demonstrated in the Fox and Wines study, tenants who do not have enough notice to ask for time off work or arrange for childcare often do not appear for their court hearing. A more deliberative process can be the difference between a family staying safely housed and becoming homeless.

That additional time can benefit the landlords as well. Most eviction filings are based on non-payment of rent, yet landlords struggle to collect the money judgments that often accompany eviction orders.<sup>20</sup> Initial hearings provide an opportunity to connect tenants with resources that allow them to pay landlords for past due rent and access to support for ongoing rental costs.<sup>21</sup>

Some Indiana courts have already taken similar steps. Highly successful programs in Allen County and Lawrence Township of Marion County are among those who conduct initial hearings now.<sup>22</sup> All Indiana courts should adopt this practice.



# Too Easy

A court order displacing a family from their home may happen thousands of times a month across Indiana. But in most other types of legal cases, this kind of result is very unusual. That’s because the law has long assumed that, when someone wins a lawsuit, the court should usually just award them money—not order someone to do something specific, like move out. The legal term for an order forcing a tenant from her home is known as an injunctive order. In no other legal dispute does a defendant face the prospect of routine, near-immediate injunctive orders.<sup>26 27</sup>

Yet this otherwise extraordinary outcome is the norm in evictions. Worse yet, the tenants almost never have an attorney arguing against it. Nationally, 90% of tenants go to eviction court without an attorney, while landlords virtually always have a lawyer.<sup>28</sup>





When our state’s supreme court chief justice visited a local small claims court to observe its eviction docket, she watched 275 cases: in not one instance was a tenant represented by counsel. “They all faced the judge and opposing lawyer alone,” Chief Justice Loretta Rush said afterward. “That is not the model of a legal system where the poor, disadvantaged, and vulnerable are protected.”<sup>29</sup>

Echoing Chief Justice Rush’s observations about the lack of counsel to tenants facing the loss of their home, the researchers Fox and Wines’ analysis of St. Joseph County proceedings found that landlords were represented by counsel in 71 percent of hearings. Tenants? They were represented by an attorney only 1 percent of the time.<sup>30</sup>

Three years ago, some of the authors of this report called for court rules to make an eviction filing in response to late rent a last resort, not the first step Indiana courts now allow it to be.<sup>31</sup> We outlined a path for reform, including requiring that landlords and tenants engage in mediation before an eviction case can be filed.

## TOO FAST, TOO EASY

Landlords and tenants both would benefit from this change. Even if the parties' agreed-upon result calls for the tenant to leave the property voluntarily, landlords avoid the cost of a writ of execution and can reduce or eliminate their attorney's fees. At the same time, the tenant avoids some of the damage that an eviction finding causes. All of the above results would reduce court caseloads and avoid the social upheaval that comes from an eviction.

This "press pause" rule would have lots of precedent. For example, some of our state courts require mandatory mediation for parties who seek civil jury trials, post-divorce-decree litigation, or two hours or more of court time for contested family law hearings.<sup>32</sup> In home foreclosure actions in our state, settlement conferences are mandatory if requested.<sup>33</sup> The court rule we call for would require landlords, before they could file for eviction, to show that they have complied with pre-filing steps to try to resolve the dispute, with exceptions if the landlord can demonstrate the property has been abandoned or actively harmed.

Given the mutual benefits from an agreed resolution in a landlord-tenant relationship, it is not surprising that several jurisdictions have created models that encourage and support landlords and tenants to achieve non-adversarial resolution of disputes. These include courts and cities in Michigan, North Carolina, Florida, Pennsylvania, Tennessee, Virginia, and Maryland. These programs provide a range of services, including access to rental assistance and other social services, conditional dismissals of court filings contingent on rent payment receipt, mediation support, settlement negotiation templates, and storage support for tenants who do need or choose to move.<sup>34</sup>

## Childhood Trauma and “The Scarlet E”: Fast, Easy Evictions Damage Our Communities

Each Indiana eviction filing carries the risk of major consequences to the targeted tenants and the communities where they live. Evictions can cause children to struggle with their health and education, parents to lose their jobs, and neighborhoods to endure upheaval.<sup>35</sup> Housing insecurity and evictions produce outsized harm on pregnant women and infants.<sup>36</sup> Children suffer negative health outcomes from evictions, researchers have shown that children are also disproportionately likely to be in a household subject to eviction.<sup>37</sup>

The damaging effects of evictions on children are not a short-lived phenomenon. Research has shown that school-age and adolescent children living in households facing eviction have “increased behavioral disturbances, poor emotional adjustment, increased teenage pregnancy rates, earlier illicit drug use, drug-related problems and teenage depression.”<sup>38</sup>

That harm begins the moment landlords file an eviction claim in court, branding tenants with the dreaded “Scarlet E.”<sup>39</sup> Even before the tenant knows a case has been filed against them, a publicly available court record has been created showing they have an eviction filing.<sup>40</sup> The tenants’ next prospective landlord is likely to check court records directly or get a screening company’s report that references the court record. For many landlords, that information leads to an automatic rejection of the tenant application—no matter the outcome of the case.<sup>41</sup>

Consider the situations of some of our recent clients. Our client “Sarah” and her two children wasted hundreds of dollars in rental application fees only to be turned down each time because of a past eviction filing. Then they were forced to sleep in a dirty, dangerous extended-stay motel that accepts “bad-credit” tenants in return for far-higher costs and no lease protections.<sup>42</sup>

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Similarly, after our clients Charles and Autumn were evicted, they paid a whopping \$2,500 a month for a hotel room where they and their five children stretched out on to every available bed and floor space to sleep. They also paid another \$200 each month for a storage unit to hold the family's belongings.

To remedy the harm that comes with an eviction filing, Indiana courts should adopt a rule that requires all eviction filings to be made confidential until a final order is issued. Upon issuance of a final order, either party may petition to make the case public.



As noted above, eviction filings are often referred to as “The Scarlet E,” reflecting their practically indelible marks that harm tenants for many years after the court proceedings have concluded.<sup>43</sup> The harm begins when a landlord considering a prospective tenant conducts a review of the tenant’s rental history. That may entail a review of data provided by a professional tenant-screening company, which collects and reports information from court records and other publicly accessible sources.<sup>44</sup>

Indiana has a process wherein tenants can seal (not visible to the public) certain eviction cases after they are decided. But the use of a tenant screening service can undercut the effectiveness of an eventual court order sealing the case. Private companies often harvest the court filing data before any sealing order can be issued, and then include the court filing information in the reports provided to their landlord customers.<sup>45</sup>

The damage caused by an eviction “record” can be enormous. Many landlords will refuse to consider a prospective tenant whose records reveal a previous eviction filing, an effect some advocates have termed “blacklisting.”<sup>46</sup> A Minnesota study showed that two-thirds of landlords cite prior eviction history as one of the top considerations when they consider tenant applications.<sup>47</sup>

Both these screening companies’ reports and court online databases often report information that is incomplete, easily misinterpreted, and readily misapplied--all to the substantial detriment of tenants. A core problem is that initial eviction filings are the information reported and acted upon, but those filings do not equate to an eviction judgment. Nationally, well over a million renters each year face eviction filings but do not ultimately receive a judgment of eviction.<sup>48</sup>



The Fox and Wines study of St. Joseph County evictions also found a substantial number of eviction filings did not result in a judgment of possession.<sup>49</sup> Not only is the information contained in online databases subject to misinterpretation, it may be simply inaccurate.<sup>50</sup> The Indiana Supreme Court, for example, is careful to issue a disclaimer as to the accuracy of the online records of Indiana proceedings.<sup>51</sup>

The effect of an eviction filing, combined with the limited supply of affordable rental homes of good quality, can force a family into homelessness.<sup>52</sup> For others, it becomes a serious obstacle in their housing search, forcing them to live in substandard, dangerous, and expensive homes. An eviction record, even one that does not include an eviction order, exacts a price in both safety and dollars.<sup>53</sup> Indiana courts can and should make these records confidential.



## **“Asset Collection Devices”: Fast, Easy Evictions Damage Our Justice System**

Fast and easy evictions come at a steep cost: due process. Due process requires that tenants understand the process, can assert their rights, or present a defense. But in a system built for speed and efficiency, that right is routinely compromised, leaving tenants without the time, information, or support needed to defend themselves. This results in a government sanctioned coercive removal of a person from their home, something that is hugely invasive and unusual in other legal contexts and that creates the impression that the courts work for the landlords of our state.

Housing researchers Philip Garboden and Eva Rosen have noted that not only are eviction hearings fast and easy, but the results are deeply unusual in that “the power of the state” is exercised in the form of law enforcement officers bodily removing tenants from their homes.<sup>55</sup> Rutgers University Law professor Kathryn Sabbeth concluded that fast/easy processes for evicting tenants is an intentionally created tool to maximize landlords’ ability to control tenants and extract their wealth: “Short timeframes that rush cases to judgment make the courts less like fora for application of the rule of law and more like asset collection devices or means for forcible removal.”<sup>56</sup>

Indiana Supreme Court Chief Justice Loretta Rush’s commentary when she observed an eviction docket featuring 275 cases bears repeating. “That is not the model of a legal system where the poor, disadvantaged, and vulnerable are protected,” she said.<sup>57</sup> Beyond Chief Justice Rush individually, Indiana’s judiciary is aware of the problem. Our Supreme Court has made clear in case decisions that it has concerns about the protection of due process in our state’s eviction hearings. In *Morton v. Ivacic*,<sup>58</sup> the Court reversed a trial court’s summary grant of possession to a landlord and denying the tenant an opportunity to present his case. In reversing, the Court stated, “The court effectively declined to hear evidence on a tenant’s affirmative defenses to eviction and ordered immediate possession for the landlord . . . The transcript appears to indicate that the hearing proceeded from the onset under the expectation that Ivacic was entitled to an order of immediate possession.”<sup>59</sup>

The Indiana Court of Appeals has its own record of concern about due process not being honored in small claims and evictions cases. For example, in *Reynolds v. Capps*, this Court expressed similar dismay about the trial court eviction process that the Supreme Court expressed in *Morton v. Ivacic*: “The hearing proceeded from the outset under the expectation that Capps (the landlord) was entitled to immediate possession of the premises.”<sup>60</sup> More recently, in *Taft v. Piper*, the Court issued a blunt rebuke to a trial court hearing on an eviction claim: “We hold that the small claims court did not just deny (tenant/defendant) Taft any one due process right, it essentially denied her any of her due process rights.”<sup>61</sup>

Similarly, in *Johnson v. Housing Authority of South Bend*, the Court ruled, “We are not insensitive to the realities of small claims courtroom adjudications. Dockets are crowded and litigants are frequently unrepresented by counsel. Nonetheless, we find that the small claims court did not provide Johnson with sufficient due process when it refused to hear her defense(s).”<sup>62</sup> And in *Herren v. Dishman*, the Court found that the Small Claims court violated a litigant’s due process rights by failing to allow the litigant to present evidence in their defense.<sup>63</sup>

In *Harris v. Lafayette LIHTC, LP*, a small claims’ judge’s failure to provide an impartial assessment of a landlord’s claim for possession led to reversal on due process grounds. The Court of Appeals recognized that the fast and easy nature of Indiana eviction proceedings can lead to an unlawful presumption that landlords should automatically prevail in court. “[D]espite the informality of the proceedings, the parties in a small claims court bear the same burdens of proof as they would in a regular civil action on the same issues,” the Harris court wrote.<sup>64</sup>

TurboTenant is not the only one who recognizes that Indiana has “landlord-friendly small claims courts.”<sup>65</sup> The fast, easy Indiana eviction process is not just harming tenants, it damages the public perception of Indiana’s judicial system.



# Solutions

Currently, Indiana judicial proceedings are fueling our state's eviction crisis. But, thankfully there are practical, common sense solutions. By using their power to establish rules of court proceedings, Indiana courts can and should restore dignity and fairness to the process.<sup>66</sup> Indiana courts should adopt these four reforms:

1

## **Ensure Tenants Have Adequate Time to Prepare for Eviction Cases**

Evictions in Indiana move faster than nearly any other legal proceeding, often leaving tenants with only days between notice and a court hearing. This rush to judgment denies tenants a fair chance to understand the case, seek help, or gather documentation. Indiana courts should adopt rules that:

- Prohibit eviction hearings or rulings (outside of legitimate emergencies) until at least 21 days after notice has been served.
- Require initial hearings between all parties before proceeding to a decision on the eviction itself.

This modest time buffer can be the difference between stable housing and homelessness. It creates time for tenants to secure rent, seek legal help, or access community support.

Some courts in Indiana, such as those in Allen County and Lawrence Township of Marion County, already follow this model with strong success. All Indiana courts should follow suit.

2

## Allow Tenants and Landlords a Chance to Resolve Disputes Outside of Court Proceedings

Eviction should be a last resort, not the automatic first step when rent is late. Yet in Indiana, landlords can file for eviction the day after rent is due, without making any attempt to resolve the issue directly with the tenant. Courts have the power to create opportunities for resolution before an eviction judgment is issued and should require:

- Mandatory pre-filing mediation
- Mandatory post-filing mediation

Creating a brief period for dispute resolution could drastically reduce unnecessary filings and court congestion. Even if the end result is that the tenant voluntarily agrees to move out, the process avoids the costs, delays, and stigma of an eviction judgment. For landlords, this means fewer legal fees, faster turnovers, and a greater chance of recovering unpaid rent.

Often evictions are filed because of miscommunications between landlords and tenants. This process will allow for dialogue that could help resolve disagreements. “Pressing Pause” for resolution before litigation doesn’t just reduce evictions, it transforms the eviction process from a punitive measure into a genuine opportunity for resolution.



**3**

## **Protect Tenants' Rights to Safe Housing Conditions**

Indiana courts should establish escrow accounts that allow tenants residing in rental property to deposit rent payments after the tenant files a sworn statement that the landlord has violated its obligations to provide safe and healthy housing conditions.

This proposed rule provides courts with an opportunity to engage in preventative justice, avoiding the significant harm that arises from an eviction filing. This rule would not create any new rights for parties. Rather, it ensures that existing rights to safe, healthy housing created by Indiana law are accessible to tenants, landlords are guaranteed that the rent owed is deposited and preserved, and needless litigation is avoided.

This proposed rule provides an important opportunity to address a common and damaging situation. Indiana renters often face eviction because they respond to unresolved housing conditions problems by withholding rent payments. This response is understandable, since tenants see few options when landlords violate Indiana's implied warranty of habitability under Indiana Code 32-31-8-5 and refuse to remedy the conditions, a significant problem throughout Indiana.<sup>67</sup>

This court rule would allow courts to provide tenants with a safe, legal response to substandard housing conditions. And this rule would allow landlords and tenants alike to resolve habitability disputes without the damage caused by the filing of an eviction action.

**4**

## **Protect Tenants from Irreparable Harm When Eviction Case is Filed**

In Indiana, an eviction filing, even without an eviction, can follow a tenant for years, often barring them from future housing. Tenant screening companies harvest court data before cases are resolved, leading to blacklisting and misinformation that undermines court sealing orders and devastates renters' futures.

Courts should adopt a rule making all eviction filings confidential until a final order is issued. Either party may petition to make the record public after that point. This approach protects tenants from premature and often inaccurate black marks, while preserving the integrity of the legal process.



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