

Preventing Unnecessary Evictions by Reforming Indiana's Landlord-Tenant Law

By Genevieve Redsten

Roosevelt @ University of Notre Dame

THESIS

To lower abnormally high eviction rates and thereby decrease economic and racial inequality, the Indiana General Assembly should reform the state's landlord-tenant laws to allow grace periods for lease violations and the withholding of rent when habitability problems arise.

BACKGROUND & ANALYSIS

Eviction, the legal process of forcing tenants out of their homes, is a profoundly destabilizing experience that creates vicious cycles of poverty and hardship. When families are forced out of their homes, they tend to move to lower-income neighborhoods¹ where they experience more financial strain.² Children in lower-income neighborhoods perform worse in school and earn less money in adulthood than their peers in higher-income neighborhoods.³ Children whose families move frequently between homes experience more emotional and behavioral problems and higher rates of depression, drug abuse, and teen pregnancy;⁴ they are also less likely to graduate from high school and tend to score lower on tests than their peers.⁵

Eviction disproportionately affects communities of color, especially Black communities,⁶ given the history of racial housing discrimination in Indiana and the rest of the United States.⁷ Many Indiana cities, such as South Bend, have shortages of safe, affordable housing, a situation that forces residents to rent substandard homes.⁸ Indiana's landlord-tenant law (IC 32-3-1-7 and IC 32-3-1-8) is extremely unfavorable to renters.⁹ As a result, landlords can easily exploit and evict vulnerable tenants living in poor conditions—especially in Indiana, which has an eviction rate 1.73 times higher than the national average. In Indiana cities with elevated poverty rates, eviction rates are even higher: 4.37 times the national average in South Bend, 4.93 times higher in Indianapolis, and 5.05 times higher in Fort Wayne.¹⁰

TALKING POINTS

- Without the right to withhold rent, Indiana tenants struggle to hold landlords accountable.²² And without a grace period to resolve lease violations, responsible tenants have no chance to resolve possibly minor violations.²³
- Indiana's landlord-tenant laws give tenants little recourse to protect themselves against eviction.¹³
- Eviction tends to force families into poorer neighborhoods, and thus, worsen their existing financial distress.¹²

KEY FACTS

- Eviction rates in Indiana cities with greater poverty rates are up to 5 times higher than the national average.¹¹
- Ohio's stronger renter-protection laws contribute to eviction rates lower than those of Indiana.²⁴ Cleveland's, for example, are 2.19 times the national average.²¹
- Eviction disproportionately affects low-income communities and communities of color.²⁵

THE POLICY IDEA

To lower its eviction rates, the State of Indiana should revise its landlord-tenant laws in two ways. First, before evicting tenants, landlords should be required to give them a grace period to resolve lease violations; second, tenants should be given the right to withhold rent when there are problems with the basic habitability of the home.

POLICY ANALYSIS

Although Indiana law currently requires that landlords maintain safe, clean, and habitable conditions for their tenants,¹⁴ it does not allow tenants to withhold rent as leverage when landlords neglect to maintain these conditions. Consequently, tenants often endure unsafe conditions¹⁵ and cannot use rent money to compensate for the additional costs they personally incur to remedy these conditions. If tenants miss rent payments, they risk eviction. The ability to withhold rent for essential repairs would empower and protect tenants.

Indiana, unlike most states, allows landlords to evict tenants with an Unconditional Quit Notice for lease violations, which means that tenants have no opportunity to address violations.¹⁶ Leases can be violated—and tenants subsequently evicted—for a variety of reasons. For example, police officers can issue nuisance property citations to tenants for domestic disturbance calls. Consequently, domestic violence victims can be deemed to have violated their leases when they, or their neighbors, call for help.¹⁷ A lease-violation grace period would give these tenants to rectify lease violations.

Ohio, a state with demographics similar to Indiana's,¹⁸ allows tenants to withhold rent for essential services and gives tenants three days to resolve lease violations.¹⁹ These renter protections prevent eviction. The poverty rate in Cleveland, Ohio, is almost twice as high as it is in Indianapolis; approximately the same amount of household income is spent on rent in both cities.²⁰ Indianapolis's eviction rate, however, is 4.93 times the national average, while Cleveland's is significantly lower, at 2.19 times the national average.²¹

This policy would not require infrastructural investment, and therefore it would be a relatively simple first step to addressing Indiana's high eviction rates. Given that eviction disproportionately affects low-income communities and communities of color, this policy would also mitigate economic and racial inequality on the state level.

NEXT STEPS

In the next few years, we plan on building a coalition of local residents and elected officials who would support the policy and demonstrate its pertinence. Continuing to work with South Bend's Near Northwest Neighborhood association to determine how to focus our advocacy and organization strategy will be important. The group is already working on affordable-housing issues on the city level and has introduced us to several local residents who are struggling with exploitative landlords. We plan to work with the Near Northwest Neighborhood association to arrange local organizing events in the next year. Other community leaders, including officials in city government and professors at Notre Dame's law school, will be key allies in the fight for this policy.

After developing grassroots support for this policy during the coming year, we will connect with the state-level lawmakers to lobby for legal reforms. Though reforms to Indiana's landlord-tenant laws must be passed by the Indiana General Assembly, the implementation of this policy is politically feasible—Indiana's affordable housing crisis has reached crisis levels and is drawing attention from Republican and Democratic officials alike.²⁶ State Sen. David Niezgodski and State Reps. B. Patrick Bauer and Ryan Dvorak of the South Bend area could be key allies in proposing and advocating for the legislation.

ENDNOTES

1. Lei Ding, et al. "Gentrification and Residential Mobility in Philadelphia." *Regional Science and Urban Economics*, vol. 61, pp. 38–51, www.sciencedirect.com/science/article/pii/S0166046216301223?via=ihub. ScienceDirect.
2. Lei Ding and Jackelyn Hwang. "The Consequences of Gentrification: A Focus on Residents' Financial Health in Philadelphia." *Cityscape: A Journal of Policy Development and Research*, vol. 18, no. 3, 2016, www.huduser.gov/portal/periodicals/cityscpe/vol18num3/ch2.pdf.
3. Raj Chetty, and Nathaniel Hendren. The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects. Report. Stanford University, Harvard University.
4. Tim Jolleyman and Nicholas Spencer. "Residential Mobility in Childhood and Health Outcomes: A Systematic Review." *Journal of Epidemiology and Community Health* 62 (June 16, 2008). <https://jech.bmj.com/content/62/7/584>.
5. Rebecca Cohen and Keith Wardrip. Should I Stay or Should I Go? Exploring the Effects of Housing Instability and Mobility on Children. Report. Center for Housing Policy. 2011. http://mcstudy.norc.org/publications/files/CohenandWardrip_2009.pdf.
6. Sarah Holder. "Where Americans Face the Most Evictions." *CityLab*, The Atlantic, 31 Oct. 2017, www.citylab.com/equity/2017/10/where-evictions-hurt-the-most/544238/.
7. Annette Scherber. "Tag: Housing." The Indiana History Blog. Accessed November 25, 2018. <https://blog.history.in.gov/tag/housing/>.
8. Drew Gardner. "South Bend Eviction Rate 3 Times the National Average." *ABC57*, 4 Oct. 2018, www.abc57.com/news/abc57-investigates-south-bend-eviction-rate-3-times-the-national-average-.
9. Nadia Balint. "Which States Have the Best and Worst Laws for Renters?" *RENTCafé*, 14 Mar. 2018, www.rentcafe.com/blog/renting/states-best-worst-laws-renters/.
10. "Eviction Map & Data." Eviction Lab. Accessed October 20, 2018. <https://evictionlab.org/map/#/2016?geography=counties&bounds=-88.227,40.808,-84.311,42.302&type=er&locations=18141,-86.293,41.597>.
11. Ibid.
12. Ding, "Gentrification and Residential Mobility"; Ding, "The Consequences of Gentrification."
13. Balint, "Which States Have the Best and Worst Laws for Renters?"
14. IND Code. 32-31-8-5, Sess. of 2017 (2017). <http://iga.in.gov/legislative/laws/2017/ic/titles/32/articles/31/pdf/IC%2032-31>.
15. Gardner, "South Bend Eviction Rate 3 Times the National Average."
16. Janet Portman. "State Laws on Termination for Violation of Lease." Nolo.com. August 23, 2016. Accessed November 22, 2018. <https://www.nolo.com/legal-encyclopedia/state-laws-termination-violation-lease.html>.
17. Matthew Desmond. *Evicted: Poverty and Profit in the American City*. Penguin Books, 2017.
18. "Eviction Map and Data," Eviction Lab.
19. OH Code. 5321-07, (1994). <http://codes.ohio.gov/orc/5321.07>.
20. "Eviction Map and Data," Eviction Lab.
21. Ibid.
22. Gardner, "South Bend Eviction Rate 3 Times the National Average."
23. Portman, "State Laws on Termination for Violation of Lease."
24. "Eviction Map and Data," Eviction Lab.
25. Holder. "Where Americans Face Evictions."

26. Todd Young. "Sen. Todd Young: It's Time to Solve Housing Affordability Crisis." Indianapolis Star. September 09, 2018. Accessed November 28, 2018. <https://www.indystar.com/story/opinion/2018/09/09/sen-todd-young-its-time-solve-housing-affordability-crisis/1216880002/>.