

SENATE BILL No. 350

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-34-9.

Synopsis: Small claims appointed counsel. Establishes the Marion County small claims appointed counsel pilot program (program). Provides legal counsel to indigent tenants during possessory actions in Marion County small claims courts. Provides that Marion County small claims courts shall contract with attorneys and legal aid services to accommodate indigency based requests for legal representation. Requires the justice reinvestment advisory council to submit an annual report concerning the program to the general assembly.

Effective: July 1, 2021.

Ford J.D.

January 11, 2021, read first time and referred to Committee on Judiciary.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 350

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-34-9 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2021]:
 4 **Chapter 9. Small Claims Appointed Counsel Pilot Program**
 5 **Sec. 1. As used in this chapter, "court" means any Marion**
 6 **county small claims court under this article.**
 7 **Sec. 2. As used in this chapter, "tenant" means the defendant in**
 8 **a possessory action under IC 33-34-3-3.**
 9 **Sec. 3. The Marion County small claims appointed counsel pilot**
 10 **program is established.**
 11 **Sec. 4. The purpose of the program established by section 3 of**
 12 **this chapter is to provide legal representation for tenants during**
 13 **small claims possessory actions.**
 14 **Sec. 5. (a) At the initial hearing of a possessory action the court**
 15 **shall inform the tenant that the tenant may:**
 16 **(1) request assigned counsel; and**
 17 **(2) be appointed assigned counsel at no expense;**



- 1 if found indigent.
- 2 (b) Upon a request by a tenant for assigned counsel, the small
3 claims court shall conduct an indigency hearing prior to the
4 completion of the initial hearing. In determining whether a tenant
5 is indigent, the court shall consider the following:
- 6 (1) The tenant's assets.
7 (2) The tenant's income.
8 (3) The tenant's necessary expenses.
- 9 (c) The court may consider that a person's eligibility for:
10 (1) the federal Supplemental Nutrition Assistance Program
11 (SNAP) (except for 21 U.S.C. 862a(a));
12 (2) the federal and Indiana TANF (Temporary Assistance for
13 Needy Families) program (except for 21 U.S.C. 862a(a)); or
14 (3) another need based public assistance program;
15 constitutes sufficient evidence to establish that a person is indigent.
- 16 (d) The court may issue an initial indigency determination
17 pending receipt of documentary or other evidence from the person
18 concerning the person's income, assets, expenses, or welfare
19 eligibility.
- 20 (e) If the small claims court determines that the tenant is
21 indigent pursuant to subsection (b) or (c), the court shall appoint
22 an attorney to represent the tenant during the possessory action
23 proceedings.
- 24 (f) If the court finds that the indigent tenant is able to pay some
25 of the costs of representation by the assigned counsel, the court
26 shall order the indigent tenant to pay a fee of fifty dollars (\$50).
- 27 (g) If jurisdiction over an indigent tenant is transferred to
28 another court, the receiving court shall assign counsel immediately
29 upon acquiring jurisdiction over the tenant.
- 30 Sec. 6. The court may review the finding of indigency at any
31 time during the proceedings if:
- 32 (1) the court receives evidence of a material change in the
33 tenant's income or assets; or
34 (2) the tenant has failed to provide the court with sufficient
35 evidence, including documentary evidence, to sustain the
36 court's initial indigency determination.
- 37 Sec. 7. Small claims courts shall contract with attorneys or
38 qualifying local legal services provider (as defined in
39 IC 33-24-12-3) to provide representation for indigent tenants.
- 40 Sec. 8. Fees collected under section 5 of this chapter shall be
41 deposited in the civil legal aid fund established by IC 33-24-12-5.
- 42 Sec. 9. (a) The justice reinvestment advisory council established



1 by IC 33-38-9.5-2 shall annually study and analyze:
2 (1) The cost of the program.
3 (2) The effect of the program on the judicial economy of
4 Marion County small claims courts.
5 (3) Whether the program could be expanded outside of
6 Marion County.
7 (b) The justice reinvestment advisory council shall submit an
8 annual report containing its findings to the general assembly in an
9 electronic format under IC 5-14-6 for each year the program is in
10 effect.
11 Sec. 10. This chapter expires July 1, 2024.

