

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9113

## TWENTY-SEVENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

### **ORDERED** that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This Order is issued pursuant to Section 22.0035(b) of the Texas Government Code.

2. This Order supplements and does not replace or amend the earlier Emergency Orders Regarding the COVID-19 State of Disaster.

3. In consultation with Governor Abbott, who has directed federal funding from the CARES Act, Community Development Block Grant, and Emergency Solutions Grant to rental assistance and eviction diversion, and the Texas Department of Housing and Community Affairs, and in an effort to curb the possible surge of evictions due to the COVID-19 pandemic, assist Texas's most vulnerable tenants, and provide landlords with an alternative to eviction, the Court establishes the Texas Eviction Diversion Program and adopts the procedures set forth in this Order.

4. Eligibility for rental assistance under the Texas Eviction Diversion Program will be determined by the Texas Department of Housing and Community Affairs and its providers.

5. In any action for eviction to recover possession of residential property under Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure based, in whole or part, on the nonpayment of rent:

a. in addition to the contents required by Texas Rules of Civil Procedure 502.2 and 510.3, a sworn original, amended, or supplemental petition must state that the plaintiff has reviewed the information about the Texas Eviction Diversion Program available at [www.txcourts.gov/eviction-diversion/](http://www.txcourts.gov/eviction-diversion/)

b. in addition to the contents required by Texas Rule of Civil Procedure 510.4(a), the citation must include:

i. the following statement: "You may be able to stop your eviction if you and your landlord agree to participate in the Texas Eviction Diversion Program. At your trial, the court will tell you about the Program and ask if you are interested in



participating. Find out more about the Program in the attached brochure, titled State of Texas Eviction Diversion Program, and at [www.txcourts.gov/eviction-diversion/](http://www.txcourts.gov/eviction-diversion/); and

ii. a copy of the informational brochure, titled State of Texas Eviction Diversion Program, prepared by the Texas Department of Housing and Community Affairs;

c. at the trial required by Texas Rules of Civil Procedure 510.6 and 510.7, the judge must:

i. discuss the Texas Eviction Diversion Program with the plaintiff and defendant;

ii. ask the plaintiff and defendant whether they are interested in participating in the Texas Eviction Diversion Program; and

iii. if the plaintiff and defendant both express an interest in participating in the Texas Eviction Diversion Program:

(A) abate the eviction action for 60 days;

(B) make all court records, files, and information—including information stored by electronic means—relating to the eviction action confidential to prohibit disclosure to the public; and

(C) inform the parties of the reinstatement and dismissal procedures outlined in Paragraphs 6 and 7 of this Order.

6. To reinstate an eviction action abated under Paragraph 5(c)(iii), the plaintiff must file a motion to reinstate with the court within the 60-day abatement period and serve a copy of the motion on the defendant. Upon the filing and service of the motion, the judge must sign and serve—in a method provided by Texas Rule of Civil Procedure 510.4—a written order that:

a. reinstates the eviction action;

b. sets the eviction action for trial as soon as practicable, but no later than 21 days after the date the order is signed;

c. states the procedures for the action to proceed; and

d. makes all court records, files, and information—including information stored by electronic means—relating to the eviction action non-confidential to allow disclosure to the public.



7. If the plaintiff does not file and serve a motion to reinstate an action abated under Paragraph 5(c)(iii) within the 60-day abatement period, the judge must dismiss the action, including any claims that do not involve the nonpayment of rent, with prejudice. All court records, files, and information—including information stored by electronic means—relating to the dismissed eviction action must remain confidential.

8. Paragraph 7 does not prohibit the plaintiff from filing an action for eviction based on future events or acts that are an independent basis for eviction.

9. This Order is effective as of October 12, 2020, for pilot counties prescribed by the Office of Court Administration, and as of November 9, 2020, for all other counties. This Order expires December 18, 2020, unless extended by the Chief Justice of the Supreme Court.

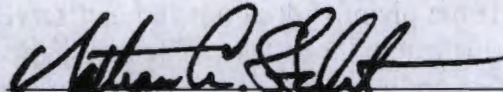
10. The Clerk of the Supreme Court is directed to:

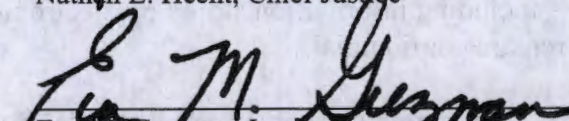
- a. post a copy of this Order on [www.txcourts.gov](http://www.txcourts.gov);
- b. file a copy of this Order with the Secretary of State; and
- c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

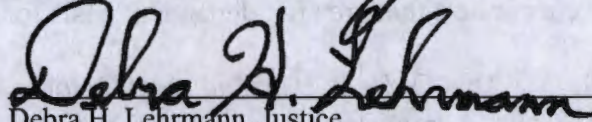
11. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

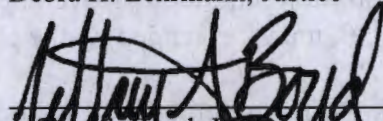
Dated: September 25, 2020.

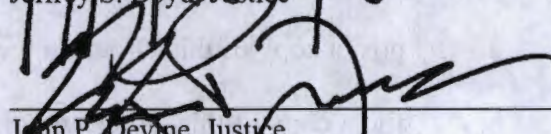


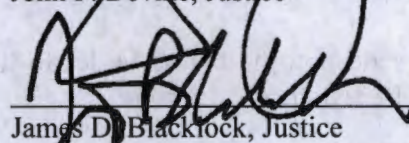
  
Nathan L. Hecht, Chief Justice

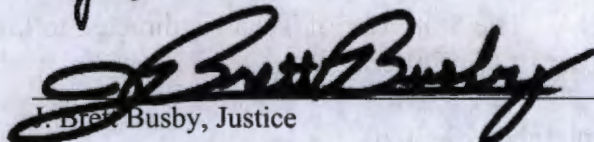
  
Eva M. Guzman, Justice

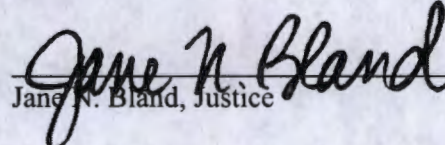
  
Debra H. Lehrmann, Justice

  
Jeffrey S. Boyd, Justice

  
John P. Devine, Justice

  
James D. Blacklock, Justice

  
J. Brett Busby, Justice

  
Jane N. Bland, Justice





# STATE OF TEXAS EVICTION DIVERSION PROGRAM



The Texas Eviction Diversion Program (TEDP) helps Texas tenants stay in their homes and provides landlords an alternative to eviction. The TEDP may provide up to six months of rental assistance for eligible tenants who are behind on their rent due to the COVID-19 pandemic and have been sued for eviction. Both the tenant and the landlord must agree to participate and meet the requirements in the chart below. This temporary program is a unique partnership between the Supreme Court of Texas, Texas Office of Court Administration, and the Texas Department of Housing and Community Affairs (TDHCA).

- Assistance can be used to pay the full contracted rent that is past due (up to five months), and the remainder may be used to pay for subsequent months of assistance (up to a total of six months).
- The TEDP uses a special court process that allows courts to put eviction lawsuits on hold and divert them to the TEDP. Under the TEDP, lump sum payments are provided to landlords for rental arrears in exchange for allowing tenants to remain in their homes and forgiving late fees. Diverted cases will be dismissed and made confidential from public disclosure.

LANDLORD / UNIT	TENANT / HOUSEHOLD
<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>⊛ Assistance for rent no older than April 2020</li> <li>⊛ Rent for the household assisted may not exceed the TDHCA maximum limits (limits available by zip code at <a href="http://www.tdhca.state.tx.us/TEDP.htm">http://www.tdhca.state.tx.us/TEDP.htm</a>)</li> <li>⊛ Must have a bank account and accept direct deposit</li> <li>⊛ Units that are already receiving project-based assistance or are public housing units are INELIGIBLE</li> <li>⊛ Units owned by a unit of government may be ineligible</li> </ul>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>⊛ Household income at or below 200% of poverty or 80% of Area Median Income*</li> <li>⊛ Household has been financially affected by the COVID-19 pandemic</li> <li>⊛ Tenants are INELIGIBLE if they are receiving tenant-based voucher assistance, are in a unit receiving project-based assistance, or are in public housing</li> </ul>
<p><b>Documents Needed:</b></p> <ul style="list-style-type: none"> <li>⊛ Copy of the executed lease with the tenant, or if no written lease, required certification proving tenancy</li> <li>⊛ Documentation of Missed Payments (ledger, etc.)</li> <li>⊛ IRS W-9</li> <li>⊛ Landlord TEDP form completed</li> <li>⊛ Landlord TEDP certification completed</li> </ul>	<p><b>Documents Needed:</b></p> <ul style="list-style-type: none"> <li>⊛ Personal ID</li> <li>⊛ If no written lease, evidence of unit tenancy</li> <li>⊛ Income: evidence of eligibility under other qualified program** OR income evidence for past 30 days</li> <li>⊛ Tenant TEDP form completed</li> <li>⊛ Tenant TEDP certification completed</li> </ul>
<p><b>You Will Be Required to Certify that You:</b></p> <ul style="list-style-type: none"> <li>⊛ Will waive late fees, penalties, and not pass court costs to the tenant</li> <li>⊛ Have not received assistance from another program for the same months of rent for this client and will not apply in the future for the covered months</li> <li>⊛ Will release the tenant from payment liability for this time period, waive all claims raised in the eviction case, and not evict the tenant for the period covered by TEDP</li> <li>⊛ Will reimburse the TEDP within 10 business days if you receive rent payment for this same time period</li> <li>⊛ If no written lease, will certify the lease term, rent amount, and be able to provide proof of tenancy</li> </ul>	<p><b>You Will Be Required to Certify that:</b></p> <ul style="list-style-type: none"> <li>⊛ Your household has been economically impacted by the COVID-19 pandemic</li> <li>⊛ You have not received rental assistance for the same months of rent and will not seek such assistance in the future for the covered months</li> <li>⊛ You have not previously received rental assistance funded with CDBG CARES funds that, together with this assistance, will exceed 6 months in total</li> <li>⊛ If no written lease, must certify lease term, rent amount, and ability to provide proof of tenancy</li> </ul>

### Who Can Help Me Access the Program?

COURT	PROGRAM
<p><b>Go to:</b> <a href="http://www.txcourts.gov/eviction-diversion/">www.txcourts.gov/eviction-diversion/</a>  <b>Call:</b> 855-270-7655 (Texas Legal Service Ctr.)</p>	<p><b>Go to:</b> <a href="http://www.tdhca.state.tx.us/TEDP.htm">http://www.tdhca.state.tx.us/TEDP.htm</a>  <b>Call:</b> 800-525-0657 or 512-475-3800 (pick option 4)</p>

\* TEDP is only available in select areas of the state initially. During that time eligibility is based on a household income below 200% of poverty:


Household Size	1 person	2 people	3 people	4 people	5 people	6 people	7 people	8 people
200% Poverty	\$25,520	\$34,480	\$43,440	\$52,400	\$61,360	\$70,320	\$79,280	\$88,240

For households with more than 8 persons, add \$8,960 for each additional person.

\*\* You are considered eligible, and need no other documentation, if you have evidence that you: 1) are currently receiving assistance under SNAP, SSI, LIHEAP, or Medicaid; OR 2) if you are living in a qualifying rent-restricted property and have evidence of an income certification from that property dated on or after March 31, 2020, and within 12 months of the application for assistance, and self-certify that your income remains below the limit. In some circumstances the TEDP administrator may allow self-certification of income, but the tenant must still be able to demonstrate evidence upon request.




## EVICTIION DIVERSION PROGRAM

The Supreme Court of Texas established the Texas Eviction Diversion Program (TEDP) through the Twenty-Seventh Emergency Order Regarding the COVID-19 State of Disaster . With funding allocated by Governor Greg Abbott through the Texas Department of Housing and Community Affairs, the program seeks to reduce the number of evictions by enabling landlords and tenants to agree upon a resolution to non-payment of rent issues.

**Texans may be eligible for rental assistance and other services offered through local providers outside of the eviction process. To find out more about these programs, please visit the Texas Department of Housing and Community Affairs rental assistance website.**

### How Does the Eviction Diversion Program Work?

The TEDP is a voluntary program that permits eligible landlords and tenants to agree upon a resolution to the issues raised in an eviction case. If eligibility requirements are met, past due rent obligations may be eligible to be covered in full and the eviction case dismissed.

1. When a landlord files an eviction case, the landlord be required to state in the petition that he/she has reviewed the information on this website.
2. All citations (notices that a tenant has been sued for eviction) must contain the following statement and an attached copy of the "State of Texas Eviction Diversion Program" informational brochure .

"You may be able to stop your eviction if you and your landlord agree to participate in the Texas Eviction Diversion Program. At your trial, the court will notify you about the Program and ask if you are interested in participating. Find out more about the Program in the attached brochure, titled State of Texas Eviction Diversion Program, and at [www.txcourts.gov/eviction-diversion/](http://www.txcourts.gov/eviction-diversion/)."












On the date listed in the citation for the trial of the eviction case, the judge must discuss this program with the landlord and tenant and ask whether the landlord and tenant are interested in the program. If both the landlord and tenant indicate they are interested in the program, the judge is required to delay the proceedings for 60 days, make the records and information on the eviction case confidential, and inform the landlord and tenant about the reinstatement procedure discussed below.

At any time during the 60-day delay period, the landlord can file a motion to reinstate the eviction case with the judge. The motion must be served on the tenant. The judge is then required to reinstate the eviction case, set it for trial within 21 days, inform the parties how to proceed, and make the records and information non-confidential.

If the landlord does not file a motion to reinstate the eviction case during the delay period, the judge is required to dismiss the case with prejudice. All records and information will remain confidential.

### Where is the Informational Brochure?

The informational brochure is available in ten languages below:

- TEDP Brochure (English/Spanish) 
- TEDP Brochure (English) 
- TEDP Brochure (Spanish) 
- TEDP Brochure (Arabic) 
- TEDP Brochure (Chinese) 
- TEDP Brochure (French) 
- TEDP Brochure (German) 
- TEDP Brochure (Korean) 
- TEDP Brochure (Russian) 
- TEDP Brochure (Tagalog) 
- TEDP Brochure (Vietnamese) 

### When Does This Start?

The eviction diversion program is effective on October 12 for cases filed in the pilot counties identified by the Office of Court Administration. The following counties have been selected to participate in the pilot phase:



Bee	Bexar	Brazos	Chambers	Deaf Smith
El Paso	Erath	Fannin	Grayson	Harris
Jim Wells	Kleberg	Montgomery	Palo Pinto	Parker
Potter	Randall	San Patricio	Wise	

Note: The eviction diversion program is scheduled to become effective in all counties on November 9 (date subject to change).

## Who Is Eligible?

To be eligible for the eviction diversion pilot program, a landlord and tenant must meet the following criteria:

Landlord Eligibility Criteria	Tenant Eligibility Criteria
<ul style="list-style-type: none"> <li>• Assistance for rent no older than April 2020</li> <li>• Rent for the household assisted may not exceed the TDHCA maximum limits</li> <li>• Must have a bank account and accept direct deposit</li> <li>• Units that are already receiving project-based assistance or are public housing units are INELIGIBLE</li> <li>• Units that are owned by a unit of government may be ineligible</li> </ul>	<ul style="list-style-type: none"> <li>• Household income at or below 200% of poverty</li> <li>• Household has been financially affected by COVID-19 pandemic</li> <li>• Tenants are INELIGIBLE if they are receiving tenant-based voucher assistance, are in a unit receiving project-based assistance, or are in public housing</li> </ul>

## Where Can I Learn More About the Program?

The Texas Legal Services Center has established a toll-free hotline to assist individuals seeking legal assistance at 855-270-7655.

The Texas Department of Housing and Community Affairs has established a website and a toll-free hotline to provide information at 800-525-0657 or 512-475-3800 (pick option 4).