

Marshall County Health Dept

www.co_marshall.in.us

Marshall County Building
112 W. Jefferson Street, Room 103
Plymouth IN 46563

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Phone 574 935-8565
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HOUSING

Tenants, Landlords, Owner Occupied

HOUSING -TENANTS

1. Warning!!

- a. The health dept. cannot force a landlord to rent to someone; tenants are often evicted.
- b. If it is bad enough to endanger children, the department is obligated to contact Children and Family Services and they may remove children.
- c. Health department may only be able to provide documentation to help you break a lease

2. First thing

- a. **YOU NEED TO NOTIFY THE LANDLORD OF THE ISSUE AND GIVE HIM TIME TO CORRECT IT - you will need proof he was notified.**
- b. If the landlord refuse to correct items listed in the Indiana Code 32-31 (landlord-tenant relations) You can bring action in court under IC 32-31-8-6 (see-Indiana Code landlord/tenant)
- c. For more *information* you can contact the Attorney General Office of Consumer Affairs 1-800-382-5516
- d. Legal service of Indiana may provide additional *information* 574-234-8121

3. The county does NOT have a housing code; if in town, check with the town.

4. HEALTH DEPARTMENT – a written complaint and access to the dwelling REQUIRED

- a. Health department documentation of issues may help you legally break a lease.
- b. 'Unfit for human habitation' The home is "order vacated or fixed"
 - i. This has to be very severe to be unfit - structural issues, lack of water, heat, sewer
 - ii. **The landlord often evicts the tenants; does just enough work to move in new tenants.** (If you had a good landlord you would not be filing a complaint)
- c. There is also an *unsafe building code*; this is similar to the unfit for human habitation

5. Money issues (Rent, deposits)

- a. This is not a health department matter.
- b. It is between you, the landlord, and if necessary the courts.

6. Children - If there is child endangerment

- a. The Department of Child Services is to be contacted 800-800-5556 – not the health department.
DCS can remove children.
- b. If the health department finds the house dangerous for children this department will contact Department of Child Services

7. Proof is a big issue –

- a. The health department must be prepared to prove in court something is a public health hazard, unfit for human habitation, is a disease threat, or unsafe structure.
- b. Not all health issues are covered by Public health laws.
 - i. **Mold** -there are no standards on mold to say this amount is a violation; mold produces non-specific symptoms like allergies. A doctor's statement on an illness related to mold exposure would be needed. (See the mold section)
 - ii. **Roaches** – often a spray knocks them down for a while but does not get the eggs.
 - iii. **Bed bugs** –debatable, they do not transmit disease
 - iv. Spiders, snakes, ants, odors, drainage issues, barking dogs are not a public health issue.

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v. Smoke detectors are required and the county prosecutors can pursue the case

8. **With no county code on housing, many issues while objectionable are limited to private lawsuits under IC 32-31**

HOUSING – Landlords

This department is not an eviction agent that is the landlord's responsibility

- If this department is pulled into it
 - Our action is against the property owner
 - We will ask for attorney and court fees
 - Any damage to the property by the tenants would not be our issue.
 - The court could order the problems fixed and no eviction
- Landlords would be better to evict them, and try to collect damages and court fees.

HOUSING – Private homes (owner occupied)

Children -endangerment

- The Department of Children Services is to be contacted
- **800-800-5556** <http://www.in.gov/dcs/>
 - They are the lead agency on children
 - They can remove children immediately
 - They have the legal wherewithal to gain access to a home
- DCS can then decide if the health department needs to be involved.

Elderly Adults

- Adult Protective Services is the lead agency **1-800-626-8320**
- Abuse, Neglect, or Exploitation - <http://www.in.gov/fssa/da/3479.htm>
- They have more legal wherewithal to gain access to a home

Health Department and Private Homes

- Legally and culturally the inside of the home is given a special status from government intervention.
 - Legally people can refuse access and demand a search warrant.
 - The court will require compelling evidence that the 'inside' is causing sickness or health issues for the community.
 - It is difficult (legally) to make the judgment on the inside of the house based on the exterior.
- Adults have the right to make their own choices on how they live.
 - It does not need to meet neighbor's standards and it can be a good or bad choice
 - The health department does not have authority over a lifestyle choice
 - Just because some says it's a health issue does not mean it is legally PUBLIC HEALTH
- Consequently the health department does not take entering a house lightly.
 - There must be compelling evidence – that it is causing sickness or an imminent health hazard to the inhabitants or the surrounding properties.
 - This department must be ready to go to court for a search warrant

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- If the situation demands that access and the courts agree
 - This department can then gain access and if justified by code, order the problem fixed or the house vacated
 - Forcing people out of their homes is a very serious step and one this department and more importantly the courts do not take lightly.