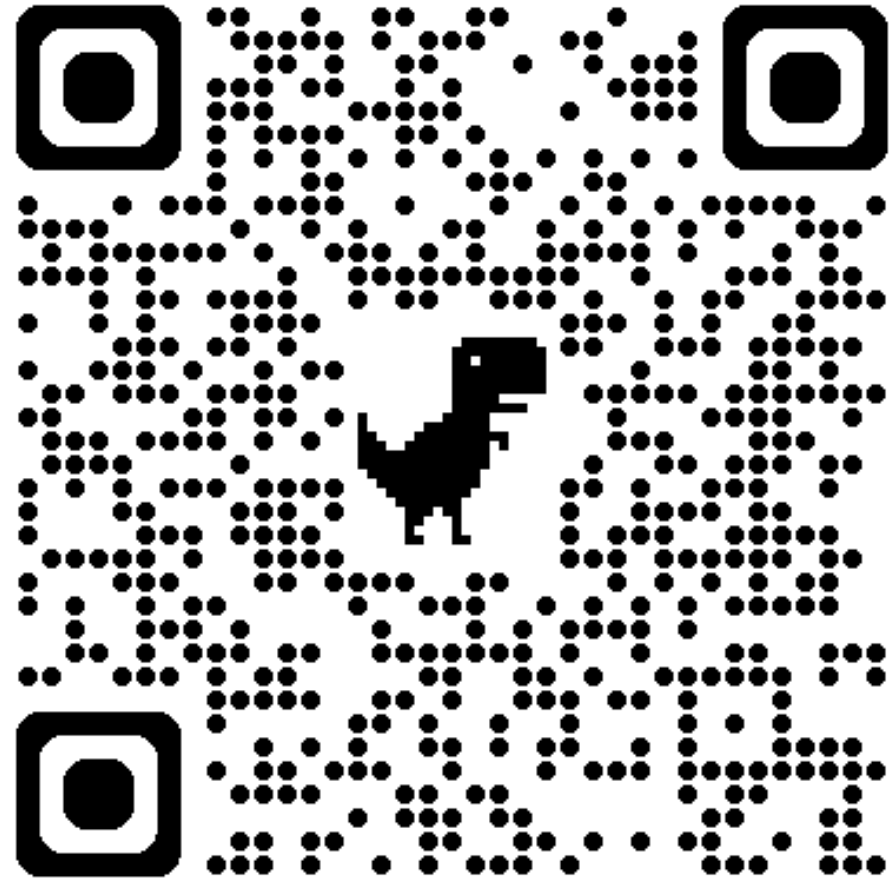




Back on the Road

Michael G. Moore
Assistant Executive Director
Indiana Public Defender Council
<https://www.in.gov/ipdc/>

More
information
about HEA
1199



HEA 1199 2021

1. New & Easier Financial Responsibility Requirements
2. Suspension Stays
3. Reinstatement Fee
4. Forbearance and Waiver for Nonviolent Offenders

Disclaimer:

The information provided in this presentation is for informational purposes only and does not constitute legal advice.

Viewers should contact their attorney to obtain advice with respect to any legal matter. Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation.

All liability with respect to actions taken or not taken based on the content of this presentation is hereby expressly disclaimed.

The content of this presentation is provided “as is,” and no representations are made that the content is error-free.

Eligibility



Ineligible if...

- ▶ **A court ordered your suspension, for an offense**

such as...

- ▶ **Drunk driving**
- ▶ **Reckless driving**
- ▶ **Driving While Suspended**
- ▶ **Suspended for refusing a chemical test**
- ▶ **Passing a school bus**

Ineligible if...

- ▶ **The BMV suspended your license for...**
- ▶ Accumulation of points on your license
- ▶ You have been deemed a Habitual Traffic Violator
- ▶ Any medical disqualification
- ▶ Failure to take a defensive driving course
- ▶ An out-of-state suspension of any sort
- ▶ Your license is suspended due to unpaid judgment on a property damage crash

Eligible if....

- ▶ **This relief MAY be available for you if...**
- ▶ Your license is suspended for failure to appear for a citation
- ▶ Your license is suspended for failure to pay a citation
- ▶ Your license is suspended for failure to provide proof of financial responsibility or not having insurance
- ▶ You are suspended for failure to pay child support

Official Driving Record



Driving Record – What it is

- A driver record contains your driving history.
- The record shows current and resolved court-ordered suspensions, citations, violations, and other entries impacting your record, including reinstatement fees owed to the BMV.

Driving Record – How to get it

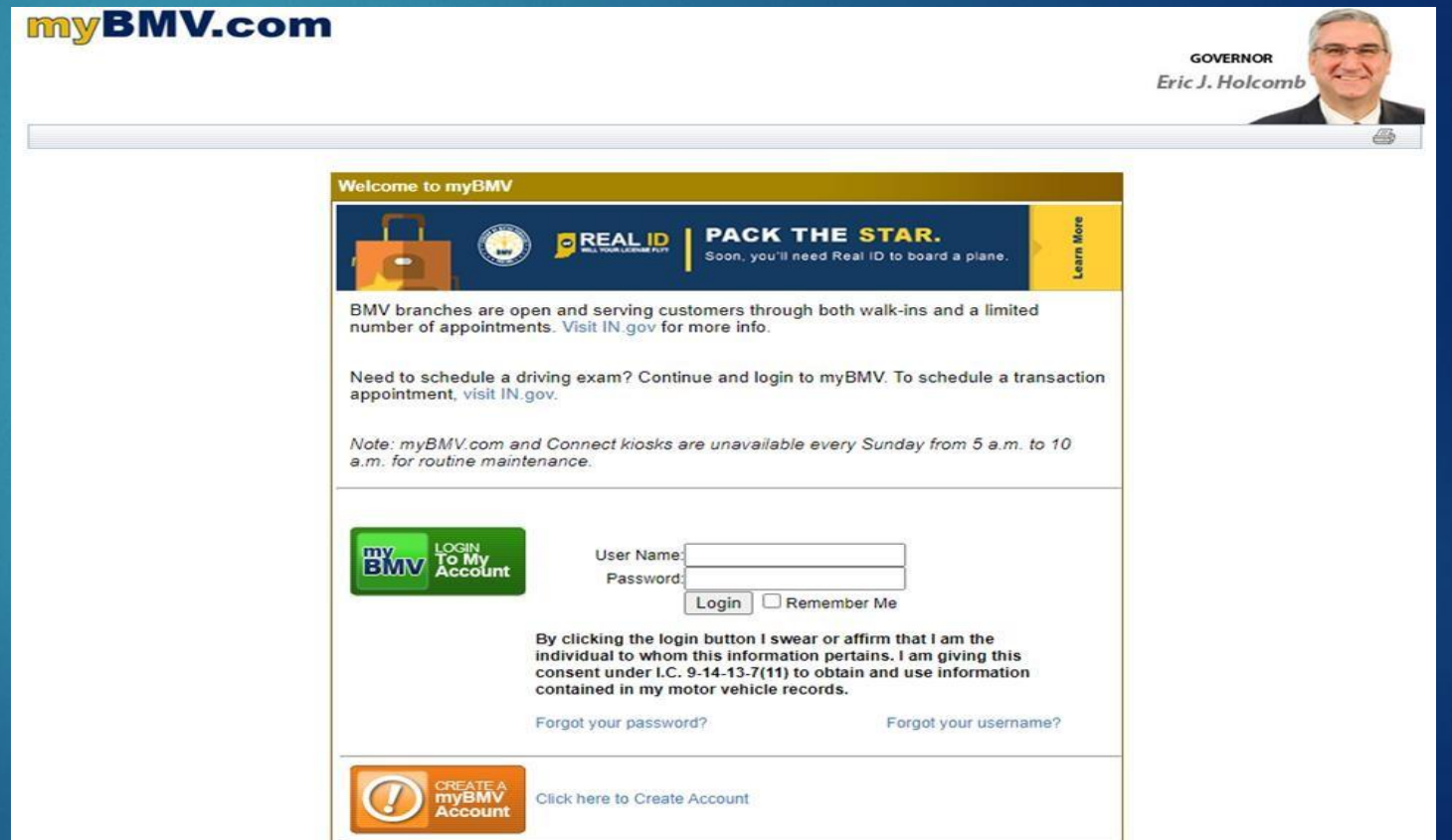
- By Mail
- By State Form 53789 from www.in.gov/bmv/resources/driver-record/

Complete the form and mail, with \$4.00 fee, to

Bureau of Motor
Vehicles Attn:
Records Request
100 N. Senate Ave, Rm N412
Indianapolis, IN 46204

Driving Record – How to get it

- ▶ **Online:**
 - ▶ Visit <https://mybmv.bmv.in.gov>
 - ▶ (Create an account if necessary)



The screenshot displays the myBMV.com website interface. At the top left is the logo "myBMV.com". At the top right, it says "GOVERNOR Eric J. Holcomb" next to a portrait of the governor. Below the header is a yellow banner with the text "Welcome to myBMV" and "PACK THE STAR. Soon, you'll need Real ID to board a plane." with a "Learn More" link. The main content area contains a message about BMV branches being open and serving customers through walk-ins and appointments, with a link to "IN.gov" for more info. Below this is a message about scheduling a driving exam and logging into myBMV. A note states that myBMV.com and Connect kiosks are unavailable every Sunday from 5 a.m. to 10 a.m. for routine maintenance. The login section features a "myBMV LOGIN To My Account" button, a "User Name:" field, a "Password:" field, a "Login" button, and a "Remember Me" checkbox. Below the login fields is a consent statement: "By clicking the login button I swear or affirm that I am the individual to whom this information pertains. I am giving this consent under I.C. 9-14-13-7(11) to obtain and use information contained in my motor vehicle records." There are links for "Forgot your password?" and "Forgot your username?". At the bottom, there is a "CREATE A myBMV Account" button and a link that says "Click here to Create Account".

Driving Record – How to get it

▶ View Driving Record for free

The screenshot shows the myBMV.com website interface. At the top left is the logo 'myBMV.com'. A navigation menu includes links for 'myBMV Home', 'Plates And Registrations', 'Vehicle Titles', 'Licenses And ID Cards', 'Driver Records', 'Suspension & Reinstatement', 'my Information', and 'Driver Training'. On the top right, there is a profile for 'GOVERNOR Eric J. Holcomb' with a 'Sign Out' link. Below the navigation is a yellow banner for the 'Bureau of Motor Vehicles' with the BMV logo. The main content area features a 'HOME' section with the text 'Welcome, BMV TEST!' and a list of services available through the myBMV account. To the right of the main content is a dark blue sidebar with a 'Shopping Cart' section (Manage Cart, Checkout) and a 'REAL ID' section with the slogan 'PACK THE STAR.' and a 'Learn More' button.

myBMV.com

GOVERNOR **Eric J. Holcomb**

myBMV Home | Plates And Registrations | Vehicle Titles | Licenses And ID Cards | Driver Records | Suspension & Reinstatement | my Information | Driver Training

Sign Out

Bureau of Motor Vehicles

HOME
Welcome, BMV TEST!

Your myBMV account makes accessing BMV services and information more secure, convenient and accessible. Through your account, you can:

- Renew license plates.
- Renew driver's license, learner's permit or ID card
- Add MotorCycle Endorsement.
- Purchase and print your Official Driver Record.
- View your driver record.
- Pay Reinstatement Fees.
- Order duplicate titles.
- Update and manage mailing address.
- Update insurance information.
- Review renewal dates and sign up for email reminders of driver's license and license plate renewal dates.

Other services not listed may require a visit to a license branch.

Shopping Cart
Manage Cart »
Checkout »

REAL ID
WILL YOUR LICENSE FLY?

PACK THE STAR.
Soon, you'll need Real ID to board a plane.

Learn More

Driving Record – What it looks like



STATE OF INDIANA

Eric J. Holcomb, Governor

BUREAU OF MOTOR VEHICLES

100 North Senate Avenue
Indianapolis, Indiana 46204
Telephone: (888) 692-6841

Peter L. Lacy, Commissioner

Indiana Official Driver Record

Note: BMV only retains supporting documentation for a period of 10 years

As of 11/23/2022 08:25 AM EST

SAMP L HOOSIER
123 MAIN ST
INDIANAPOLIS, IN 46205-1922

License number: 1234-56-7890
License type: Drivers
License expires: 03/27/2023
License status: SUSPENDED-PRIOR

Birth date: 03/27/1975
Gender: MALE
Driver condition: Unknown Condition

Current points: 10
Social Security #: [REDACTED]

Suspension Information - (* indicates active suspension)

Susp. ID	Suspension Reason	Effective Date	Expiration Date	Mail Date	Address ID	Fee Due
7[*]	FAILURE TO FILE INSURANCE – BUREAU CASE: 49G09PENDING MARION SUP CRIMINAL DIV 9 OFFENSE DATE: 01/10/2022 VEHICLE: 2017 TOYOTA	05/20/2022	Indefinite	04/05/2022	1	\$1000.00
6[*]	FAILURE TO PAY CASE: 49G09-2201-IF-00001 MARION SUP CRIMINAL DIV 9 OFFENSE: SPEEDING	04/02/2022	04/02/2025	03/02/2022	1	
5[*]	FAILURE TO PAY CASE: 49G13-1712-IF-0654321 MARION SUP CRIMINAL DIV 13 OFFENSE: SEAT BELT VIOLATION	01/30/2018		01/30/2018	1	
4[*]	FAILURE TO FILE INSURANCE – BUREAU CASE: 06D02-1609-IF-0123 BOONE SUPERIOR COURT 2 OFFENSE DATE: 09/15/2013 VEHICLE: 2009 CHEVROLET	12/02/2016	03/02/2017	10/17/2016	1	\$500.00
3[*]	DELINQUENT CHILD SUPPORT CASE: 7417002 ST. JOSEPH CO. PROSECUTOR'S OFC	12/01/2015		11/27/2015	1	
2[*]	FAILURE TO APPEAR CASE: 41D04-1506-IF-1234 JOHNSON SUPERIOR COURT 4 OFFENSE DATE: 06/12/2015	11/01/2015		08/01/2015	1	

Total Reinstatement Fees Owed:

\$1500.00

Proof of Future Financial Responsibility / SR22

- ▶ This is NOT proof of current insurance
- ▶ This is NOT a Certificate of Compliance proving past insurance
- ▶ An SR22 is a promise by an insurance company to notify the BMV when a specific insurance policy is canceled in the future
 - ▶ The insurance company files an SR22 when the insurance policy is effective
 - ▶ The insurance company files an SR26 when the insurance policy is cancelled

Failure to Appear



Failure to Appear Suspensions – How it Happens

- ▶ Your license is suspended for “Failure to Appear” when you missed a court date either ordered by the court or printed on your citation
- ▶ This is an indefinite suspension, so it stays on your license forever unless you appear in the court where your citation is pending

Failure to Appear

▶ Looks like this on a drivers record



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Total Reinstatement Fees Owed:

\$1500.00

Failure to Appear – Terminating the Suspension

- ▶ A “failure to appear” suspension may be terminated by appearing in the court that ordered the suspension
- ▶ This does not resolve the underlying offense

Failure to Appear – New Relief

- ▶ A person who shows proof of future financial responsibility with SR-22 insurance will have their “failure to appear” suspension **stayed**
- ▶ When a suspension is **stayed**, the suspension is temporarily paused, and a person can drive as if they are not suspended

Failure to Appear

- ▶ Please Note: A Failure to Appear suspension is an indefinite suspension
- ▶ The suspension will stay in place forever, unless a person appears in court, a default judgment is entered, or the charge is dismissed
- ▶ A person will have their Failure to Appear suspension stayed so long as they continue to show proof of future financial responsibility

Your license will be re-suspended if...

- ▶ You commit a new criminal offense that suspends your license
- ▶ You receive a new administrative suspension
- ▶ You fail to maintain proof of future financial responsibility with SR-22 insurance or your insurance lapses
 - ▶ Your insurance carrier will notify the BMV when you fail to pay
 - ▶ The BMV will automatically lift the stay, which means your license is once again suspended



Failure to Pay

Failure to Pay Suspension – How it Happens


- ▶ Pleading guilty or nolo contendere to a citation
- ▶ Being found guilty at trial of a citation
- ▶ A default judgment being entered against you for a citation
- ▶ After December 31, 2021, this only applies to pointable violations found at 140 IAC 1-4.5-10
- ▶ You failed to pay the fine by the date set by court
 - ▶ Once the payment date is passed, notice is sent to the BMV
 - ▶ The BMV suspends the license starting 30 days from when they receive notice from the court (the date will be on the notice sent from the BMV)

Failure to Pay - Terminating the Suspension

- ▶ A “failure to pay” suspension may be terminated by paying the amount ordered by the court
- Before December 31, 2021 will automatically terminate after 12/31/2024
- After December 31, 2021 will automatically terminate after three (3) years from suspension date
 - ▶ Any money owed is still due, only the suspension is terminated

Failure to Pay

▶ How it looks on a drivers record



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Total Reinstatement Fees Owed: \$1500.00

Failure to Pay – New Relief

- ▶ A person who shows proof of future financial responsibility with SR-22 insurance will have their “failure to pay” suspension **stayed**
- ▶ When a suspension is **stayed**, the suspension is temporarily paused, and a person can drive as if they are not suspended
- ▶ The suspension has not been terminated and remains on a person’s record. However, the suspension time continues to run

Failure to Pay – New Relief

The suspension will stay in place forever unless the person pays their citation

But,

A person will have their Failure to Pay suspension stayed as long as they continue to show proof of future financial responsibility with SR-22 insurance

Failure to Pay – New Relief

- ▶ A **STAY**, is a temporary pause.
- ▶ A person can drive as if they are not suspended
- ▶ The suspension has not been terminated and remains on a person's record.
- ▶ This suspension terminates after three (3) years, though any money owed is still due
- ▶ The suspension stays on the person's driving record.

Your license will be re- suspended if...

- ▶ You fail to maintain SR-22 insurance:
 - Your insurance carrier will notify the BMV when you fail to pay
 - The BMV will automatically lift the stay, which means your license suspension is active
- ▶ Your license accumulates enough points to trigger a suspension, or you are declared a Habitual Traffic Violator by the BMV
- ▶ You commit a new criminal offense that suspends your license



**Financial
Responsibility**

Financial Responsibility

- ▶ Several ways the BMV will determine if you have operated without insurance:
 - ▶ Citation
 - ▶ Crash
 - ▶ Failure to pay SR-22 insurance
 - ▶ Any other contact with the BMV that causes them to check the status of your insurance

Financial Responsibility

- ▶ **Old penalties are being removed from law**
- ▶ They used to range from 90-day suspensions to 1-year suspensions
- ▶ Pre-existing suspensions are still valid until they expire
- ▶ As of December 31, 2021, your license will be suspended indefinitely if you are driving without insurance AFTER December 31, 2021

Financial Responsibility – New Relief

- ▶ **Terminating the indefinite suspension**
- ▶ Obtain proof of future financial responsibility with SR 22 insurance for 180 days
 - ▶ BMV will stay the suspension upon receiving notice of future financial responsibility with SR-22 insurance
 - ▶ Normal insurance will not stay the suspension or count towards the 180-day period
 - ▶ Must carry 180 days of SR22 insurance
 - ▶ The indefinite suspension will terminate after the 180-day period as long as there is not a lapse in coverage

Reinstatement Fees

- ▶ After the financial responsibility suspension is terminated, you will not need to pay your reinstatement fees tied to the no insurance suspension in order to be reinstated
- ▶ After 180 days, may get any insurance that complies with BMV requirements



Child Support Suspensions

Child Support Administrative Suspension Relief

- ▶ Pay 8 X Current Weekly Support Order in a lump sum.
- ▶ Second, you must provide Proof of Payment to the Prosecutor Child Support Office enforcing your case.
- ▶ If you have suspensions in other cases with other child support orders, you must take the above steps in each of those cases.

Child Support Administrative Suspension Relief

Child Support office must

- ▶ Confirm that you made the payment
- ▶ Send a reinstatement order to BMV within 7 days after confirmation

Child Support Administrative Suspension Relief

- ▶ You must continue paying as required by your child support order to avoid another suspension.



Waiver of Reinstatement Fees

Reinstatement Fee Waivers

- ▶ Person owing reinstatement fees may file a petition in a criminal court in the county where they live
 - ▶ Serve the prosecutor
 - ▶ Prosecutor may appear at hearing

Reinstatement Fee Waivers

- ▶ **Court may waive some or all reinstatement fees owed if the person proves they:**
 - ▶ **Are indigent,**
 - ▶ **Have future financial responsibility, and**
 - ▶ **Waiver is appropriate under the circumstances**
- ▶ **Court may waive reinstatement fees on its own motion; no petition required**

The image features a dark blue background. On the right side, there is a large, light blue circle. A thin, vertical light blue line is positioned to the left of the circle. The word "Forbearance" is written in a bold, white, sans-serif font, centered horizontally and partially overlapping the light blue circle.

Forbearance

Forbearance - Eligibility

Reinstatement fees imposed under IC 9-25-15 may be waived if a person:

- ▶ Is a nonviolent offender;
- ▶ Has completed the individual's criminal sentence or is serving a term of probation or parole; and
- ▶ Is enrolled in job training or maintains consistent employment for at least three (3) years

Forbearance - Application

- ▶ Submit State Form 57170 "Application for Department of Corrections Forbearance of Reinstatement Fees" to BMV

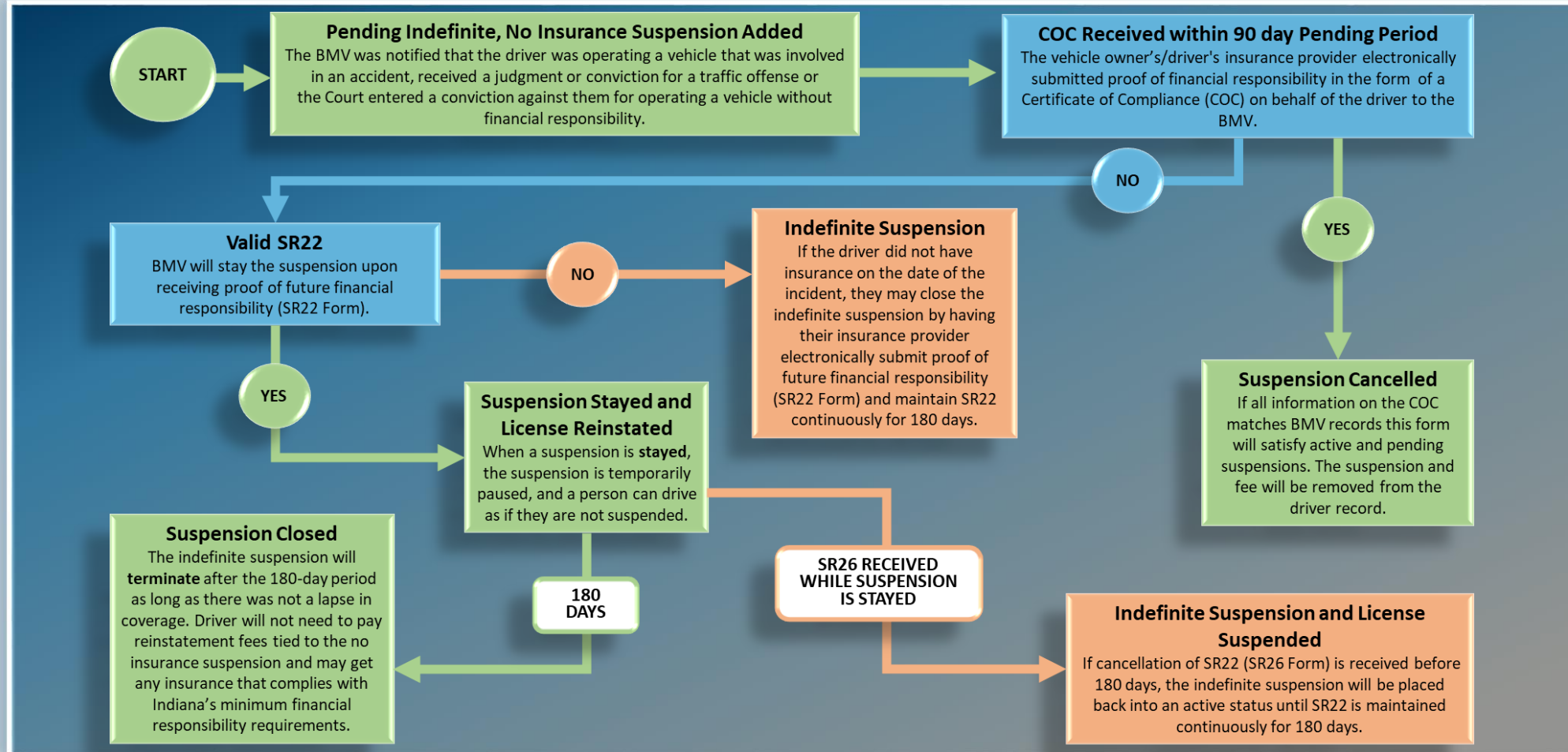
No Insurance Suspension Flow Chart

Effective On or After 12/31/2021



Things to Keep in Mind:

- A driver convicted by a court of operating a motor vehicle without financial responsibility will result in a Failure to File Insurance – Court suspension that cannot be removed with a matching COC. The driver **MUST** contact the court.
- Offenses from **before** January 1, 2022, will be suspended under the old penalties. However, the driver will have the option to obtain a 180-day SR22 to stay the suspension and be reinstated without having to pay fees.



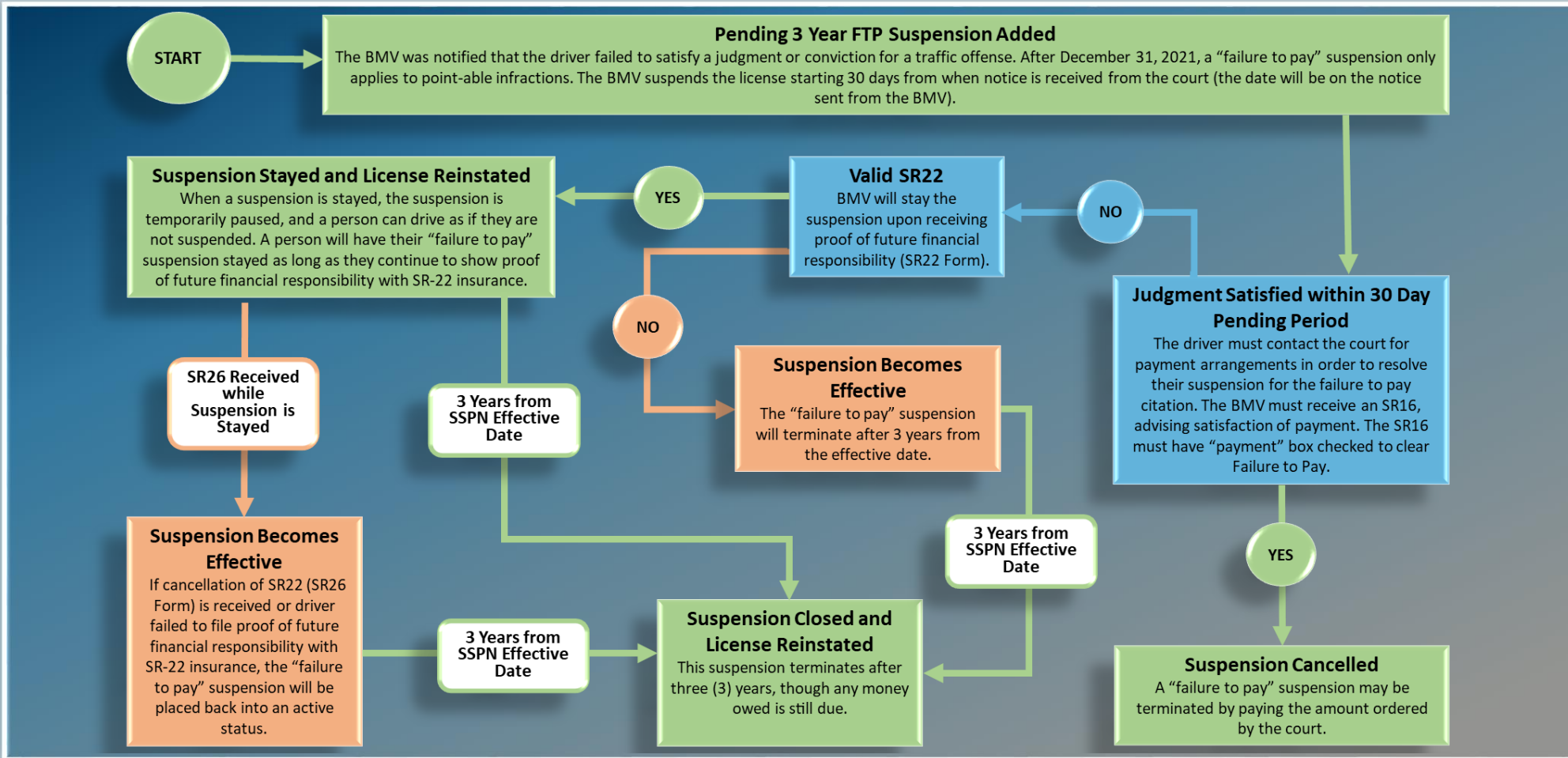
■ Path to closed, cancelled or stayed suspension

■ Path may lead to either an effective suspension OR a closed, cancelled or stayed suspension

■ Path to an effective suspension

Failure to Pay (FTP) Suspension Flow Chart

Effective On or After 12/31/2021



- Things to Keep in Mind:**
- In addition to the reasons noted in the chart, a driver’s license will be re-suspended if:
- A new criminal offense is committed that suspends the license
 - The license accumulates enough points to trigger a suspension.
 - Declared a Habitual Traffic Violator by the BMV.

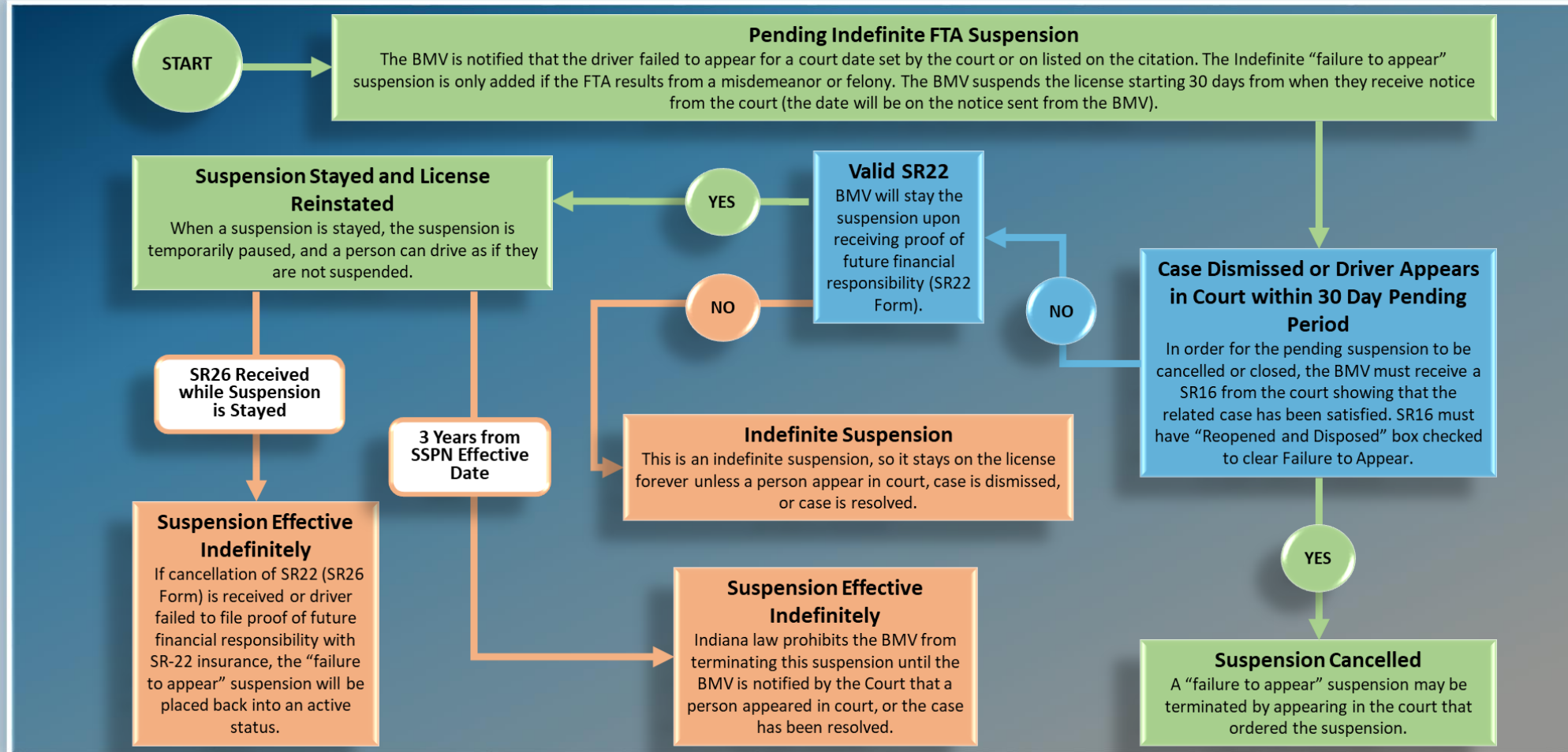
Path to closed, cancelled or stayed suspension
 Path may lead to either an effective suspension OR a closed, cancelled or stayed suspension
 Path to an effective suspension

Failure to Appear (FTA) Suspension Flow Chart

Effective On or After 12/31/2021



- Things to Keep in Mind:**
- The suspension will stay in place forever, unless a person appears in court, a default judgment is entered, or the charge is dismissed.
 - If a person continues to hold the SR-22 form, the FTA will remain stayed even after the 3-year period.
 - A terminated "failure to appear" does not resolve the underlying offense with the court.



- Path to closed, cancelled or stayed suspension
- Path may lead to either an effective suspension OR a closed, cancelled or stayed suspension
- Path to an effective suspension

Q&A



SR22

- ▶ Can an individual submit proof of insurance to the BMV for themselves or does it have to come from the insurance carrier?
 - ▶ It has to come from the carrier.

SR22

- ▶ Once the carrier sends the SR22 to the BMV, how will the driver know the suspension is stayed and they are able to validly drive?
 - ▶ The BMV will send the person a “stayed notice” confirming that the suspension has been stayed
- ▶

SR22

How will Law Enforcement know the person has a valid driving privileges?

- ▶ The driver's record will show the person's suspensions are stayed and their driving privilege is valid

SR22

- ▶ How will the Official Driver's Record reflect that a suspension is stayed due to the existence of insurance with SR22?
- ▶ Each suspension that is stayed will be marked with a double asterisk (**)

SR22

Can an Indiana resident whose license is suspended for failure to comply with an out-of-state violation seek relief from that suspension by obtaining insurance with SR22?

No, only suspensions for in-state failures to appear and failures to pay are eligible for such relief

SR22

- ▶ If an individual has a suspension stayed by having an SR22 on file, and then picks up a new FTP suspension, will that suspension automatically be stayed as well?
 - ▶ Yes, as long as the SR22 continues, the new suspension will be stayed, though it will still require a full 3 years of SR22 for the person to remain valid throughout the suspension

Suspension for Failure to Appear

- ▶ If someone is suspended for failure to appear, can they have that suspension stayed by obtaining insurance with SR22?
- ▶ Yes, but the underlying suspension will remain indefinite and will not terminate after 3 years like the new failure to pay suspensions will

Default Judgment

- ▶ Is there a time limit on a court's ability to enter default judgment to "convert" a failure to appear into a failure to pay?
- ▶ No. Failures to pay are indefinitely pending cases that may be closed via the default judgment process at any point

Default Judgment

- ▶ Is default judgment automatic or must the prosecutor and court follow a procedure?
- ▶ The state and court must follow a procedure including a new hearing date, notice, and making certain assurances required by rule

Default Judgment

- ▶ Can judgment being entered on cases that are currently pending as “failure to appear” result in a person being declared HTV?
- ▶ Yes. Default Judgment counts as a conviction.

Default Judgment

Can a person resolve their HTV status by obtaining SR22 and having the underlying failure to pay suspensions stayed?

No.

However, relief from an HTV suspension may be obtained through a Specialized Driving Privilege Petition—consult an attorney.

Points-based Suspensions

- ▶ If someone resolves their FTA/FTP suspensions by appearing and/or paying their fines, doing so may cause points to accumulate against their license resulting in an administrative suspension. Will having insurance with SR22 on file stay that administrative suspension?
- ▶ No. Suspensions based on accumulated points are only eligible for relief via specialized driving privileges

Suspension for Not Having Insurance

- ▶ If a person whose suspension is stayed by having an SR22 on file allows their insurance to lapse before the 180-day period is complete, can they have the suspension stayed again and ultimately terminated by re-obtaining SR22?
- ▶ Yes, but the 180 day period starts over as the insurance with SR22 must be maintained for 180 consecutive days

Specialized Driving Privileges

- ▶ Are SDPs still available?
 - ▶ Yes, all previously existing forms of relief still exist and may still be used.
- The relief from license suspension created by HEA 1199 is in addition to what already existed.

Child Support

- ▶ Can a IV-D prosecutor negotiate the lump sum payment required by IC 33-25-4-33.5 to something less than 8-weeks of support in order to lift the suspension?
- ▶ No, but all means of negotiating resolution are still available



Resources

Indiana Bureau of Motor Vehicles

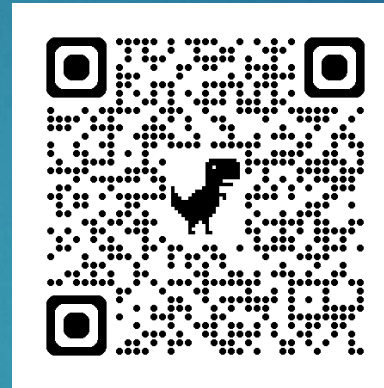
- ▶ Licenses, Permits & IDs:
Suspension, Reinstatement, and
Insurance Forms:

<https://www.in.gov/bmv/licenses-permits-ids/suspension-and-reinstatement/suspension-reinstatement-and-insurance-forms>

Civil Legal
Assistance & Self-
Help Court Forms

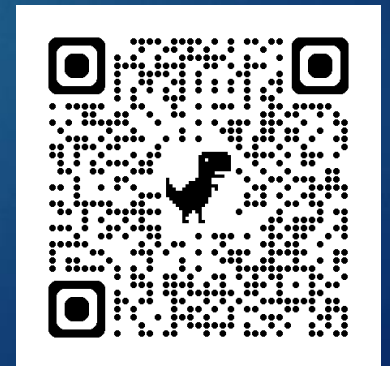
- ▶ Indiana Legal Services, Inc.

<https://www.indianalegalservices.org>

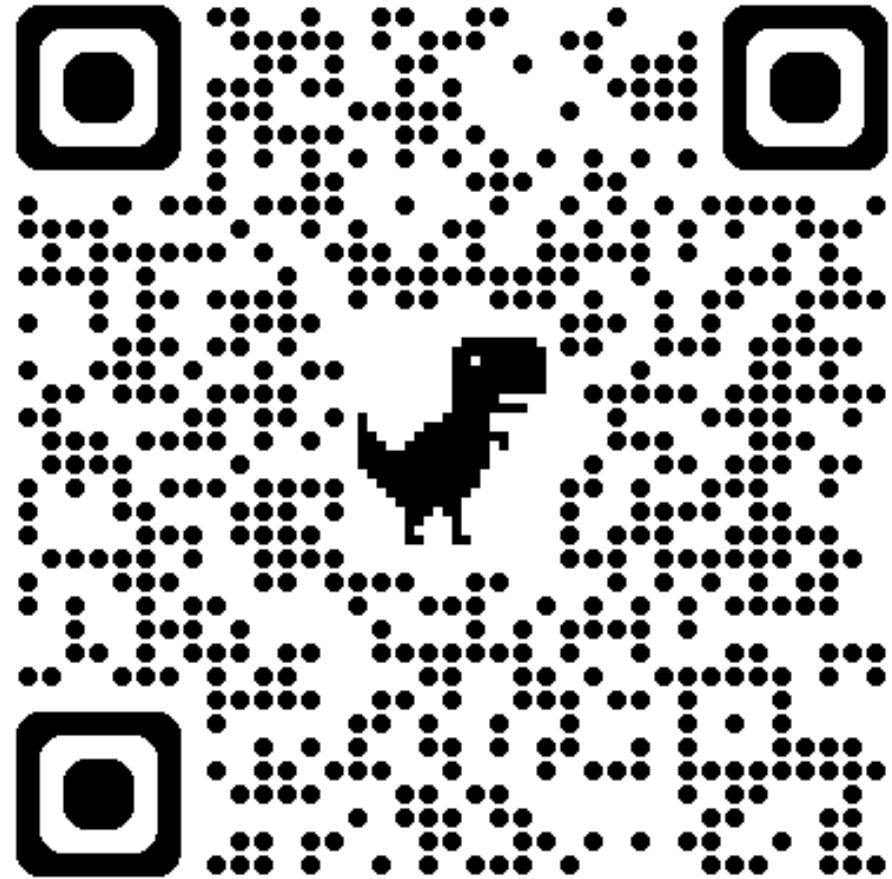


Indiana Legal Help

<https://indianalegalhelp.org>



More
information
about HEA
1199



Electronic
copy of this
PowerPoint

