



EVICTIION RESOLUTION PILOT PROGRAM

Helping Tenants and Landlords Avoid Eviction Proceedings During COVID-19



WASHINGTON
COURTS
ADMINISTRATIVE OFFICE OF THE COURTS

Report to the Washington State Legislature
July 1, 2022

July 1, 2022

To the Legislature:

It is the honor of the Administrative Office of the Courts to present the enclosed report regarding the Eviction Resolution Pilot Program (ERPP). As mandated in ESB 5160, the Administrative Office of the Courts, in collaboration with Resolution Washington, have assembled this collection of data and information in answer to the directive from the statute.

After approximately 12 months of collaborative discussion, writing, data research and capture, we recognize and hold sincere appreciation for the incredible work and commitment of all the stakeholders that have contributed to the program.

We would like to give a special thank you to Eviction Resolution Pilot Program Judicial Leadership Team: Judge Jaqueline Shea-Brown (Benton/Franklin), Judge Tony Hazel (Spokane) and Commissioner Clint Johnson (Pierce). Without their involvement, vision and effort, the program would not have come to fruition.

A handwritten signature in black ink, appearing to read "Laurie L. Sale". The signature is fluid and cursive, with the first name "Laurie" being more prominent than the last name "Sale".

LAURIE L. SALE Court Program Specialist for the Eviction Resolution Pilot Program (ERPP)

ESB 5160 Lead

The Administrative Office of the Courts

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I. Executive Summary

In early 2020, the nation was in the beginning throes of the COVID-19 pandemic. Recognizing the risk of increased homelessness flowing from the COVID-19 emergency, federal, state, and local governments instated a moratorium on evictions.

As the pandemic continued, countless Washingtonians experienced financial insecurity and were unable to meet monthly expenses. Understanding the magnitude of the crisis, the Superior Court Judges' Association (SCJA) gathered a workgroup of stakeholders around the state to address the issue and advance solutions.

As a result of those efforts, the state's first Eviction Resolution Pilot Program (ERPP) was born. Landlord and tenant advocates and attorneys worked with judges, court staff, and dispute resolution specialists to create a program designed to connect both landlords and tenants with available resources and to facilitate early resolutions where possible. On September 9, 2020, the Washington Supreme Court issued [Order No. 25700-B-639](#): Authorizing Eviction Resolution Program in Superior Courts. The program was piloted in six counties: Spokane, King, Clark, Pierce, Thurston, and Snohomish, as these counties collectively account for nearly 80% of annual eviction filings across the state.

On April 22, 2021, the legislature adopted [ESSB 5160](#), implementing a statutory eviction resolution pilot program to run through June 30, 2023. As directed by section (7), "Any Superior Court, in collaboration with the Dispute Resolution Center (DRC) that

is located within or serving the same county, participating in the Eviction Resolution Pilot Program must report annually to The Administrative Office of the Courts beginning January 1, 2022, until January 1, 2023, on the following:

- (a) The number of unlawful detainer actions for nonpayment of rent that were subject to program requirements;
- (b) The number of referrals made to dispute resolution centers;
- (c) The number of nonpayment of rent cases resolved by the program;
- (d) How many instances the tenant had legal representation either at the conciliation stage or formal mediation stage;
- (e) The number of certifications issued by dispute resolution centers and filed by landlords with the court; and
- (f) Any other information that relates to the efficacy of the pilot program.

This report will seek to answer the aforementioned required performance measures in the statute, discuss the Administrative Office of the Courts' (AOC) and the judicial leadership's collaborative outreach strategy to broaden public knowledge of the new statewide resource, offer recommendations for enhanced data collection as ERPP moves into the second year of the pilot, and provide an overview of challenges and successes relative to the program.

II. Acronym Glossary & Key Definitions

AG	Attorney General
AGO	Attorney General's Office
AOC	The Administrative Office of the Courts
BIPOC	Black, Indigenous, and people of color
CERTIFICATE	DRC certificate of participation in the ERPP, issued pursuant to local Standing Order
COMMERCE	Department of Commerce
DRC	Dispute Resolution Center, non-profit public service organizations established by the Washington State Legislature in 1984, (RCW 7.75)
ERPP	Eviction Resolution Pilot Program
FY	Fiscal Year
HJP	Housing Justice Project
JIS	Judicial Information System
KCBA	King County Bar Association
LL	Landlord
NOTICE	ERPP Notice and Resource Information form (ERPP Notice)
NJP	Northwest Justice Project
OCLA	Office of Civil Legal Aid
PBC	Pro Bono Council
PEP	Public Education Partnership
PSA	Public Service Announcement
ResWA	Resolution Washington
SCJA	Superior Court Judges Association
UND	Unlawful Detainer
UDWG	Unlawful Detainer Work Group
WASB	Washington Association of State Broadcasters
WMFHA	Washington Multi Family Housing Association
YTD	Year-to-Date

III. Introduction

A. Residential Eviction Moratoria

Governor Inslee, in response to the COVID-19 public health emergency, issued [Proclamation 20-19](#) declaring a moratorium on residential evictions for nonpayment of rent. Originally scheduled to end on April 17, 2020, the moratorium was extended through additional proclamations.

By statute, the eviction moratorium ended on June 30, 2021, and the state transitioned out of the eviction moratorium into a three-month “bridge” under [Proclamation 21-09](#) which was then extended an additional month under [Proclamation 21-09.01](#). Statewide, the eviction moratorium and bridge provisions expired October 31, 2021, though some local eviction moratoria continued including the City of Seattle, whose residential eviction moratorium ended February 28, 2022.

Notably, [Proclamation 21-09](#) made four specific requirements for ERPP to operate in a county during the bridge period: 1) a local standing order of the superior court; 2) an attestation of operational readiness from the rental assistance agency serving the county; 3) an attestation of operational readiness from the DRC serving the county; and 4) that landlords first make the tenant a reasonable repayment offer and give the tenant 14 days to respond to the offer before ERPP could be initiated.

B. Components of the Eviction Resolution Pilot Program

The ERPP provides for pre-filing dispute resolution, access to civil legal aid for qualifying low-income tenants, and rental assistance funding with the goal of sustaining housing stability. The DRCs serve tenants and landlords statewide by providing referrals and support in accessing rental assistance, as well as referrals to legal information and advice. DRC staff and volunteers enable communication to allow parties to resolve their unpaid rental arrears; this helps tenants retain housing and landlords to receive rents owed. Landlords initiate the process by issuing the tenant and the DRC an ERPP Notice; the DRCs issue a Certificate upon completion of the program (see the [ERPP Flowchart](#) in the Appendix). Since July 2021, DRCs have served **52,380** people, and case volume has not yet peaked. The time required to process rental assistance applications continue to create program pressure, mainly for DRCs with high case volumes in urban areas. This became particularly acute in Q3 and Q4 of FY22, and supplemental funding in the amount of **\$7,307,297.00** for FY23 is expected to address this need.

The final component in support of the implementation of ERPP was the statewide Unlawful Detainer Work Group (UDWG). Formed by the Superior Court Judges' Association and the Administrative Office of the Courts, the UDWG brought together stakeholders representing the judicial officers and clerks of the state's Superior Courts, the Washington Multifamily Housing Association (WMFHA), Pro Bono Council (PBC), Northwest Justice Project (NJP), the Office of Civil Legal Aid (OCLA), representatives from Resolution Washington (ResWA) and the Department of Commerce. The UDWG

identified opportunities and challenges, produced educational materials and course corrections as facts and circumstances dictated.

C. Pilot Counties

During the eviction moratorium, a Washington Supreme Court Order established the first ERPP in Spokane, King, Clark, Pierce, Thurston, and Snohomish counties, as these counties collectively account for nearly 80% of annual eviction filings across the state.

D. Standing Orders

The six pilot counties operated under local standing orders issued by each superior court. Once ESB 5160 was passed by the legislature in April 2021, funding enabled a statewide roll-out of ERPP.

Any ambiguity as to whether a local standing order was required to implement ERPP was resolved by letter from the Attorney General's office in September 2021, by which time investment in bringing all 39 counties to ERPP through local standing order was well underway. The impact of a local superior court standing order motion is two-fold. They have been a valuable focal point to support local unlawful detainer workgroups in effectively implementing ERPP to meet local needs and circumstances, which vary across the state. They may also add complexity. Particularly where landlords, property managers, attorneys and DRCs serve clients in multiple counties, collaboration among county superior courts has been a valued and critical success marker. Recognizing these opportunities and challenges, the UDWG crafted a model standing order.

This model standing order became the framework to support Superior Courts in drafting and implementing standing orders that addressed their local needs.

These orders specify compliance with ESB 5160. They require landlords to undertake efforts to engage tenants in pre-filing resolution efforts including; properly issuing notices, participating in direct negotiation, facilitated conciliation services, and mediation services provided by through the DRCs.

Through the efforts of the UDWG and other judicial stakeholders, ambiguities and community concerns relative to the standing orders were addressed in a second model standing order in late 2021. A complete list of each county's standing order can be located and viewed on the Administrative Office of the Courts [ERPP public facing website](#).

IV. Timeline of Events

- **11/1/2020:** Voluntary six-county pilot eviction resolution program starts
- **4/22/2021:** ESB 5160 becomes law and establishes the ERPP
- **7/1/2021:**
 - a. State Eviction Moratorium ends
 - b. Bridge Proclamation (Proclamation 21-09) starts, making ERPP an opt-in program for counties through September 2021
- **July 2021:** Superior Courts of Snohomish, Lewis, Cowlitz, King, Yakima, Jefferson, Grays Harbor, Pacific, and Wahkiakum Counties (nine counties) issue Standing Orders to establish local ERPPs

➤ **August 2021:**

- a. Superior Courts of Kittitas, Mason, Clark, Adams, Spokane, Grant, Pierce, Kitsap, Whatcom, Island, Asotin, Columbia, Garfield, Walla Walla, and San Juan Counties (fifteen counties) issue Standing Orders to establish local ERPPs
- b. Eleven DRCs attest ERPP is operationally ready

➤ **September 2021:**

- a. Superior Courts of Ferry, Pend Oreille, Stevens, Skagit, Klickitat, and Skamania Counties (six counties) issue Standing Orders to establish local ERPPs
- b. Four DRCs attest ERPP is operationally ready

➤ **9/24/2021:** Bridge Proclamation is extended through 10/31/2021

➤ **October 2021:**

- a. Superior Courts of Chelan, Clallam, Douglas, Okanogan, Benton, and Franklin Counties (six counties) issue Standing Orders to establish local ERPPs
- b. Three DRCs attest ERPP is operationally ready

➤ **11/1/2021:** Bridge Proclamation ends and ERPP becomes fully operational statewide

➤ **1/19/2022:** A simplified Amended Model Standing Order is completed by the UDWG and shared with judicial officers statewide.

V. Methods of Reporting

The ERPP data team (comprised of AOC and ResWA staff) accessed several administrative data and documentation record keeping systems to assess ERPP performance on the metrics required by ESB 5160. Each data or record keeping system is described below, including the method used to access data and the specific ERPP performance measures that were collected from each system.

- **Administrative Office of the Washington Courts Judicial Information System (JIS)**

ERPP Measure: 1(a) Number of unlawful detainer (UND) filings for nonpayment of rent filed with the Courts that were subject to the ERPP.

Description: The JIS is the primary information system for courts in Washington, providing case management automation to appellate, superior, limited jurisdiction, and juvenile courts. JIS automates and supports the daily operations of the courts and connects judicial officers, court staff, attorneys, and the public to a statewide database for court-based information. The degree of variability in clerks' data entry for UND filing information was a data challenge. For example, not all counties consistently documented whether the type of certificate filed in an UND case was an ERPP/DRC certificate. For the purposes of this assessment, only certificates that were clearly identified as ERPP/DRC certificates were included in analyses.

- **King County Case Management System**

ERPP Measure: 1(a) Number of unlawful detainer (UND) filings for nonpayment of rent filed with King County Superior Court that were subject to the ERPP.

Description: The King County Superior Court implemented a new case management

system on 7/15/2019 and their cases have been removed from the statewide JIS. While King County's system is searchable by court case number, the DRC assigned case numbers and court case numbers at the UND filing stage do not match. The data team could not search the system by party names for confidentiality reasons. As a result, AOC staff were required to work directly with staff at the King County Clerk's Office to obtain information for all UND filings including those with an ERPP/DRC certificate filed.

- **Resolution Washington Data Warehouse**

ERPP Measures:

- 2 (b) The number of referrals made to dispute resolution centers;
- 3 (c) The number of nonpayment of rent cases resolved by the program;
- 4 (d) How many instances the tenant had legal representation either at the conciliation stage or formal mediation stage;
- 5 (e) The number of certifications issued by dispute resolution centers; and
- 6 (f) Any other information that relates to the efficacy of the pilot program.

Description: ResWA collects data from the 21 DRCs in a centralized data warehouse (Resolution Washington Data Warehouse), which is used for internal data analysis and decision-making and to provide data for agency reporting. The Resolution Washington Data Warehouse contains the ERPP data from all 21 centers across the state. Upon request, the data team received the raw data for the ERPP performance measures from ResWA through a secure AOC-established data portal.

Data Cleaning and Reliability

Data integrity was maintained for each data source through the capture, storage, retrieval, update, and transfer stages. Only AOC compiled data from the JIS and King County systems, and it did so from court records. All data were reviewed for duplicate cases, and monthly data updates from ResWA were posted on a secure portal managed by AOC so that all data could be collectively reviewed by the data team.

VI. Findings

A. ESB 5160 Required Performance Measures

Findings are presented for each of the required ESB 5160 performance measures below.

1. (a) The number of unlawful detainer actions for nonpayment of rent that were subject to program requirements

Table 1 presents, by county and for the state as a whole: 1) the number of unlawful detainer (UND) actions for non-payment of rent; 2) the number of UND filings that were not ERPP cases (i.e., filings that did include an ERPP/DRC certificate); 3) the number of UND filings that were subject to the ERPP (i.e., filings that included an ERPP/DRC certificate); and 4) the percentage of all UND filings that came from ERPP cases. Cases included are from UND filings beginning 11/01/2021 (when Bridge Proclamation ended and ERPP became fully operational) through May 31, 2022.

Between 11/01/2021 and 05/31/2022, **10.8%** of all UND actions for nonpayment of rent in Washington were from cases that had been subject to the ERPP. It is important to note, however, that for some counties this may be an under-representation of the percentage of UND filings for ERPP cases. This is due to variability in clerks' entry of information on certificates filed with the court. Data from some counties included a code indicating that a certificate was filed but did not specify the type of the certificate. Other counties consistently noted that a certificate was from an ERPP/DRC case. The data summarized in table 1 below includes only those cases where a certificate was entered and clearly identified as an ERPP/DRC certificate.

Table 1: UND filings by County from 11/01/2021 to 05/31/2022

County	Total # of UND Filings with Court	# UND filings without ERPP Certificate	# UND filings with ERPP Certificate	% Of Total UND Filings that were ERPP cases
ADAMS	3	2	1	33.3%
ASOTIN	20	17	3	15.0%
BENTON	166	104	62	37.3%
CHELAN	32	30	2	6.2%
CLALLAM	39	35	4	10.2%
CLARK	485	420	65	13.4%
COLUMBIA	5	4	1	20.0%
COWLITZ	112	94	18	16.1%
DOUGLAS	16	15	1	6.2%
FERRY	2	2	0	0.0%
FRANKLIN	47	36	11	23.4%
GRANT	64	59	5	7.8%
GRAYS HARBOR	62	54	8	12.9%
ISLAND	32	29	3	9.4%
JEFFERSON	13	8	5	0.0%
KING	777	709	68	8.7%
KITSAP	135	132	3	2.2%
KITTITAS	19	16	3	15.8%
Klickitat	12	11	1	8.3%
LEWIS	65	52	13	20.0%
LINCOLN	2	2	0	0.0%
MASON	49	44	5	10.2%
OKANOGAN	15	14	1	6.7%
PACIFIC	28	28	0	0.0%
PEND OREILLE	1	1	0	0.0%
PIERCE	866	851	15	1.7%
SAN JUAN	1	1	0	0.0%
SKAGIT	67	55	12	17.9%
SKAMANIA	1	1	0	0.0%
SNOHOMISH	423	382	41	9.7%
SPOKANE	514	470	44	8.6%
STEVENS	22	21	1	4.5%
THURSTON	184	162	22	1.6%
WAHIAKUM	2	1	1	50%
WALLA WALLA	39	37	2	5.1%
WHATCOM	110	75	35	31.8%
WHITMAN	23	23	0	0.0%
YAKIMA	173	128	45	26.0%
TOTAL	4,626	4,125	501	10.8%

As depicted in figure 1, the number of UND filings for non-payment of rent that were subject to ERPP reached a high statewide in May 2022 (124 UND filings).

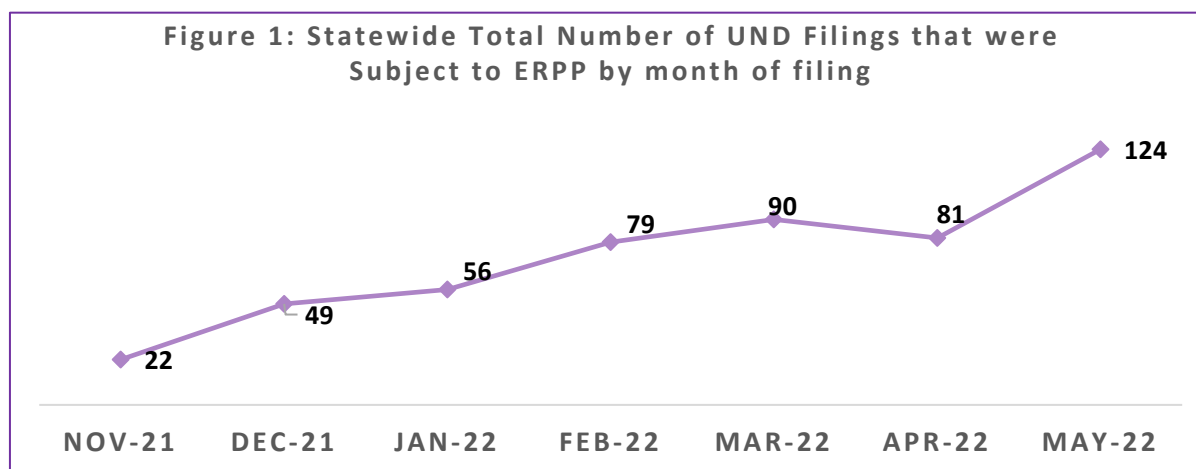


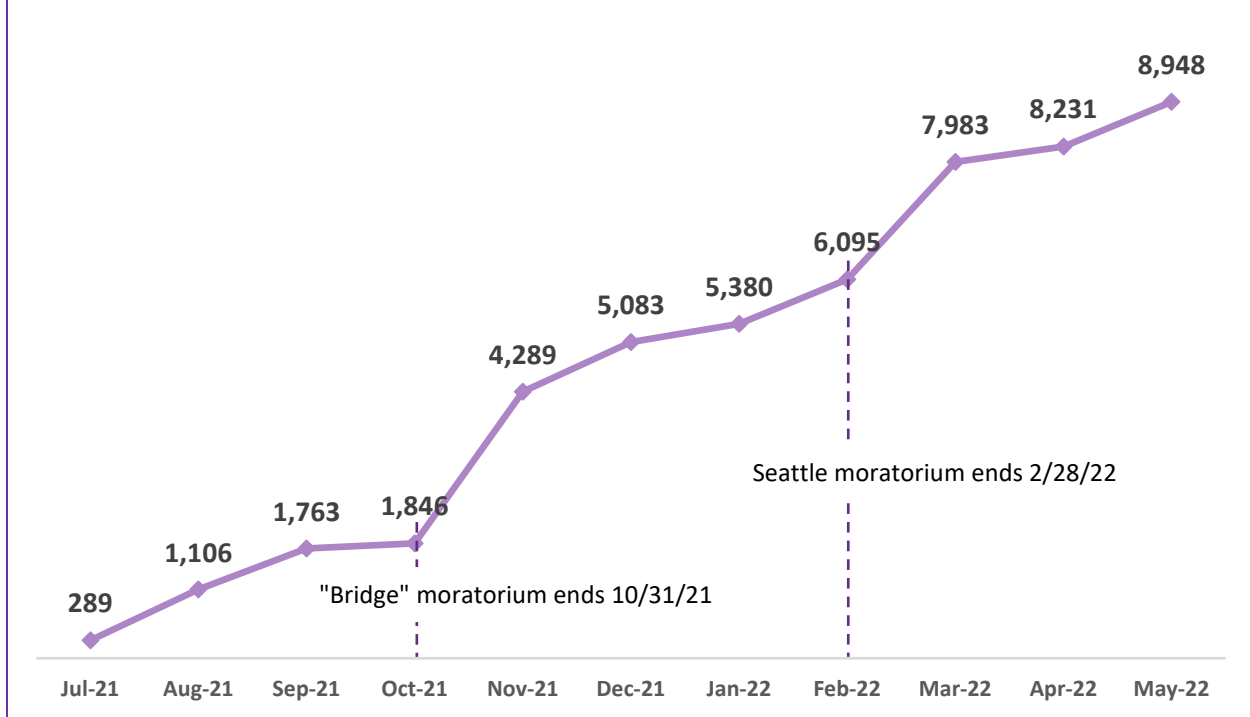
Figure 1: King County's eviction moratorium was not lifted for Kenmore and Burien until January 16, 2022, and not until February 28, 2022, for Seattle

2. (b) The number of referrals made to dispute resolution centers¹

The DRCs received a total of **51,022** ERPP Notices from July 2021 through May 2022 (see fig. 2).

¹ The DRC dataset consists of all cases that were opened July 1, 2021, or later and were closed no later than May 31, 2022. DRCs processed ERPP cases and issued certifications between July 1, 2021, and November 1, 2021, that were eligible to be filed in court starting November 1, 2021 when the eviction moratorium under Proclamation 21-09.01 was lifted (except for three cities in King County where local eviction moratoria were extended through January 15, 2022 (Kenmore and Burien) and February 28, 2022 (Seattle)). Due to the July 1, 2022 report deadline, June 2022 data could not be included as DRC data reporting happens during the first two weeks of the following month for which cases were closed.

Figure 2: Statewide Total Number of Referrals to DRCs by Month



While a range of different agencies and actors can make ERPP-related referrals to the DRC, the data team considers a referral to exclusively mean an ERPP Notice that was sent to the DRC by a landlord (see fig. 2).

The DRCs closed cases and completed work on **25,108** of the ERPP Notices they received. This is the dataset used to calculate outcome statistics in the subsequent findings below, except for (e), the number of certifications issued. Measure (e) includes additional certifications that were issued upon request by the landlord after the DRC had already closed and reported the case to Resolution Washington.

3. (c) The number of nonpayment of rent cases resolved by the program

A total of **9,285** nonpayment of rent cases reached a resolution using different DRC services (see fig. 3 and 4).

Figure 3: ERPP Referrals: Resolved, Unresolved, and N/A

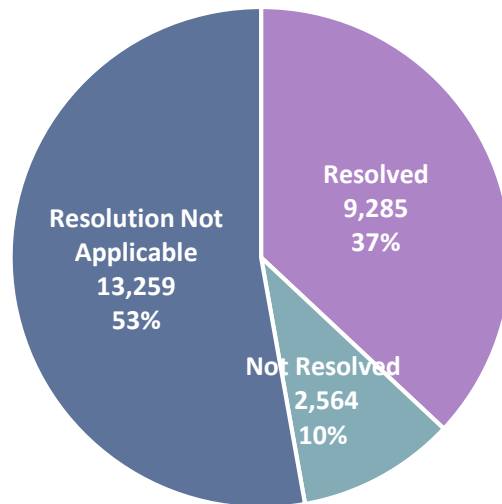
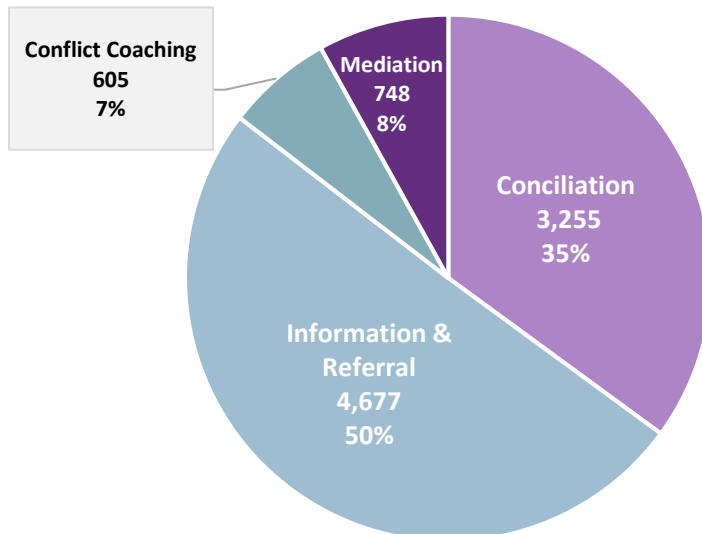


Figure 4: ERPP Resolved Cases by Service Type



4. (d) How many instances the tenant had legal representation either at the conciliation stage or formal mediation stage

A total of **154** tenants had legal representation during the conciliation stage and a total of **87** tenants had legal representation during formal mediation.² Excluded from these data are tenants who had legal counsel, advice, or information available outside of the conciliation or formal mediation session.

5. (e) The number of certifications issued by dispute resolution centers and filed by landlords with the court

The DRCs issued **9,140** certifications, **501 (5.5%)**³ of which were filed by landlords with the court.

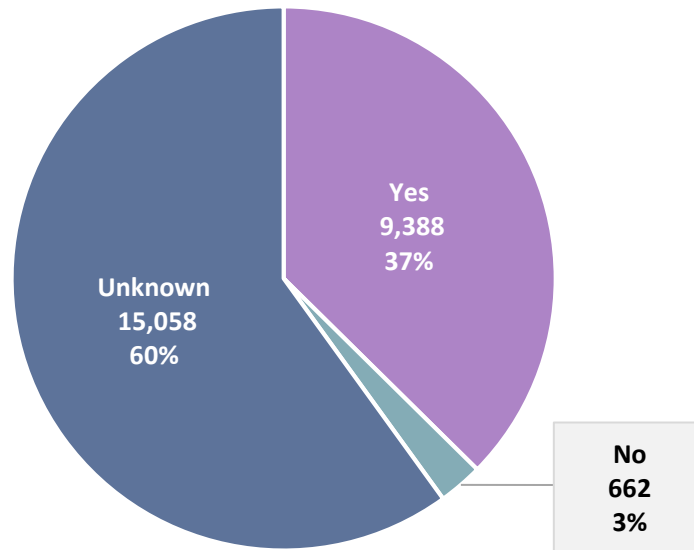
6. (f) Any other information that relates to the efficacy of the pilot program

As shown in figure 5, **9,388** tenancies were preserved upon case closing. However, in 60% of the cases tenancy status outcomes were unknown. In many of these cases DRCs referred out to rental assistance or other agencies, closed the case, and did not hear back from the client regarding the outcome.

² DRCs refer every tenant to legal counsel unless the tenant requests otherwise.

³ Due to inconsistencies in documentation of certificates as ERPP/DRC certificates in the courts' case management system, this number may be an under-representation of the total number of DRC certificates that were filed by landlords with the court.

Figure 5: Tenancy Preserved



The race and ethnicity of tenants who went through the ERPP at the DRCs during this time period are depicted in figures 6 and 7 below. Data are based on the responses of 7,451 and 8,327 tenants for figures 6 and 7, respectively. Demographics are usually asked at intake and are not required to receive DRC services. DRCs report de-identified client demographics to ResWA without a client identification number. This means a small number of tenants may be included more than once if they returned for another ERPP case during this time period (e.g., in case of a default on a repayment plan or a new case of rent owed).

Figure 6: ERPP Tenant Race

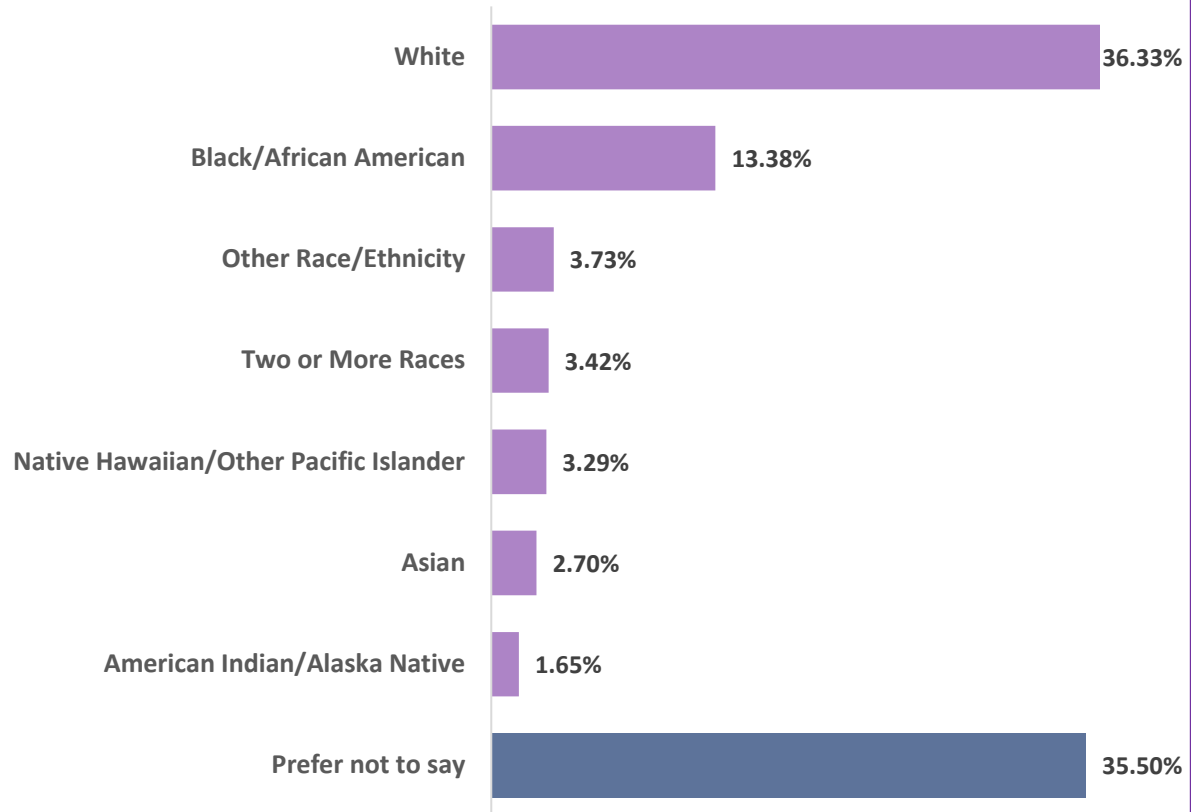
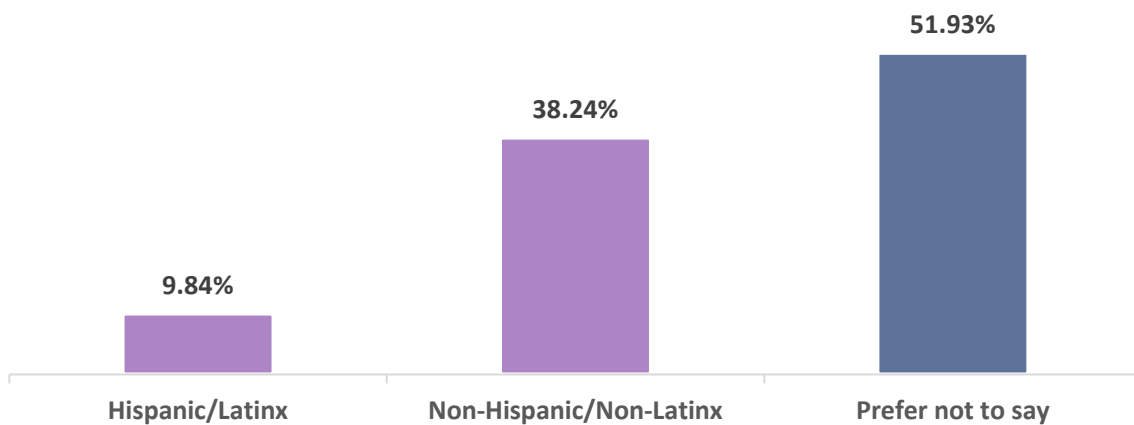


Figure 7: ERPP Tenant Ethnicity



VII. Programmatic Outreach

As ERPP is a two-year pilot program and initially unknown to the state at large, AOC engaged in a three-prong approach to disseminate information to the public. A public education partnership campaign (PEP), public-facing website, dedicated email address, and multi-language informational handout, offered the public educational tools to learn about ERPP and take advantage of this new statewide resource.

A. Public Education Partnership Campaign (PEP)

AOC partnered with the Washington State Association of Broadcasters (WSAB) to create an outreach campaign designed to reach a statewide audience in both metro and rural areas. PEP has been utilized by government agencies, and trade and non-profit organizations and offers extraordinary reach to English and Spanish language speakers. In an effort to capitalize on the prospect of an exceptional and varied state audience, AOC worked in collaboration with WSAB to create an [ERPP radio](#) and [TV Public Service Announcement \(PSA\)](#). During the first two months of the campaign, the PEP campaign delivered a 5.26:1 return on AOCs initial investment. Table 2 illustrates the breakout of Radio and TV spots and the value prescribed to each.

Table 2: Public Education Partnership (PEP) Campaign Breakdown and Value by Month					
Month	Radio Spots	Value	TV Spots	Value	Total Value
November	2,671	82,679	661	38,142	\$120,821.00
December	3,118	93,102	900	49,045	\$142,146.72
Total	5,789	175,781	1,561	87,187	\$262,967.72

Due to the success of the outreach effort, AOC extended the PEP campaign through May 2022.

B. AOC Public-Facing Website and Dedicated Email Address

The AOCs' public-facing [ERPP website](#) and dedicated email address located at www.evictionresolution.org are another example of educational resources for the public. The ERPP website is a clearinghouse of information and contains valuable resources for any citizen or stakeholder seeking to learn about the program. Located on the home page are landlord and tenant resources, information about the program, a list of each county with the corresponding DRC and a message from the Washington Supreme Court announcing the launch of the two-year pilot program. In addition, the website also houses numerous press articles, program documents, and informational videos including the aforementioned radio and TV PSAs. The website is managed by AOC staff and is updated regularly.

The dedicated email address exists as an additional avenue to respond to questions and assist the public on the ERPP. All emails are answered and/or directed to the best resource available which in many cases are to the DRCs. The daily average hovers between 5–10 emails per day. The email address is managed by AOC staff on a daily basis.

C. ERPP Informational Handout

In cooperation with the in-house Communications Team, AOC invited feedback from ERPP stakeholders to help craft and design the informational handout. In addition to [English](#) the document is translated into the top five languages spoken in the state [Korean](#), [Russian](#), [Vietnamese](#) and [Tagalog](#) (see ERPP Handouts in Appendix). The handout is a one-page document that presents an overview of ERPP, describes the

terms of participating in the program and directs the reader to the dedicated email address of the AOC. The flyer was distributed to ResWA and in turn to the 21 DRCs, the statewide Superior Courts and posted on the ERPP public-facing website as the final piece in the three-prong outreach strategy.

VIII. Recommendations for Enhanced Data Collection in the Future

Moving forward, the ERPP would benefit from enhanced data collection and data entry standards to improve reliability and consistency in record keeping regarding ERPP performance measures. This includes efforts to improve county clerk's data entry practice in UND cases to ensure that all UND filings with an ERPP/DRC certification include notes that clearly identify that certification as an ERPP/DRC certification.

Future measurement efforts should assess whether the ERPP is reaching key demographics, such as marginalized populations, through a comprehensive review of program data. While some demographic information was analyzed as part of the current assessment, the ERPP should continue to monitor key demographic data when reviewing program outcomes in the future and develop targeted approaches to meet the needs of these groups.

Evaluations of the impact of ERPP on case process and outcomes should be considered and additional support for research and evaluation activities obtained. The

metrics provided in this report inform an understanding of the performance of the ERPP at achieving stated program goals. However, future data collection could employ more rigorous evaluation designs and methods to explore the impact of the ERPP on case processes and outcomes. All program stakeholders should be engaged in articulating key measures of success for the ERPP beyond the foundational performance measures required by ESB 5160.

IX. Conclusion

Despite a tenuous start, the ERPP is steadfastly finding its footing and providing landlords and tenants with a viable option for settling non-payment of rent disputes. At its core, the ERPP was designed as a court diversion program and to that end, the statistical data demonstrates a successful pilot program. After almost eight months of full operation, UND cases have not overwhelmed the courts as originally feared and landlords and tenants are finding avenues in which to retain tenant viability. As is commonplace among many statewide pilot programs, the ERPP has seen a myriad of challenges and successes throughout the course of the past year. Consequently, as the ERPP moves into FY23, stakeholders are presented with an opportunity to learn from the missteps of the past, course correct, and embrace the future.

A. Challenges

The challenges surrounding the ERPP are best viewed and understood through the competing voices of the landlord (LL) and tenant advocates. On one side LL advocates express concern that the program delays, and potentially blocks access, to the courts

and residing on the other side are tenant advocates who view a court proceeding as the best way to protect a tenant from potential exploitation of difficult circumstances. At present, both constituencies are endeavoring to make their particular case in all forums available to them. By way of example, an open question remains as to whether a reasonable repayment offer under [RCW 59.18.630](#) is required to be made to the tenant, with 14 days for the tenant to accept, before ERPP may be initiated, or whether the reasonable repayment offer and ERPP period may run concurrently. To date, the issue has been addressed in some places by legislative action (e.g., City of Spokane) and in others by local standing order (Kitsap County, Snohomish County).

There have also been challenges relative to the DRCs around staffing, funding, and resource and capacity that have resulted in high caseloads and slower case processing. At the time it was created, budgeting was based upon an extrapolation of pre-pandemic UND case filings for nonpayment of rent, plus a variable to recognize the number of cases that were not filed during the eviction moratorium. What was not considered, as it was unknowable, was the number of pay-or-vacate notices issued by landlords to tenants each month, for nonpayment of that month's rent by the date it is due. This has proven to be a significantly higher number than anyone understood, became quickly and painfully apparent in November and December 2021, and has had a notable impact on the delivery of ERPP services.

Across the state, DRCs are managing a period of peak volume (with particular focus on King County) and are working proficiently and diligently to process each ERPP Notice

received. To manage the flow of cases, the DRCs have applied and communicated sensible processes such as: requiring one notice per email or envelope (no batch notices); processing notices in the order in which they are received; and processing any notice received after 3:00 p.m. the next business day. The processes implemented do not change the 14-day periods rather they seek to manage the flow of contact attempts on a tenant upon receiving an ERPP Notice. Opportunely, the DRCs will soon receive funding in the amount of **\$7,307,297.00**, generously provided by the recent legislative session. This funding will afford the DRCs a robust opportunity to address their resource and capacity challenges and scale up and sustain their staffing for the pilot program through FY23.

The last challenge of significance centers around the depletion of rental assistance (RA). Per the Department of Commerce (DOC), T-RAP 1.0, T-RAP 2.0 and ERAP 2.0 are the main rent assistance programs for the state relative to the ERPP. Currently, RA is running low or disappearing altogether with particular focus on urban areas. Five of the six pilot counties (King, Pierce, Spokane, Yakima, and Thurston) have either paused or ceased accepting applications and awarding rental assistance due to funds already being fully obligated or there is an effort on the part of the rental assistance agencies to process a large amount of backlogged applications before reopening to new submissions. Subsequently, even if new applications are accepted, rental assistance will be fully obligated very quickly with the tremendous number of applications arriving to be processed.

Recently, the DOC contracted additional rent assistance funds to King County in the amounts of *\$33,507,302 and *33,037,553 from an additional T-RAP 1.0 fund and E-RAP 2.0 tranche respectively. The total amount of rent assistance available to each county between the three programs (T-RAP 1.0, T-RAP 2.0, and ERAP 2.0) has not changed, and technically no one county is receiving extra funds. What has changed is the pot funds are originating from.

Table 3 below depicts the amount of rental assistance that has been awarded year to date (YTD) for each program and how many households have been served.

Fortunately, the medium and smaller sized counties remain open and are still accepting applications and awarding rental assistance. However, time will tell if their RA remains viable or is directed to the larger counties as needed. A lack of RA for the ERPP presents a credible challenge as the program was predicated on the notion of adequate and sustained funding for LLs and tenants for all parties to reach and arrive at a satisfactory outcome relative to non-payment of rent.

Table 3: Amount of Rental Assistance Awarded YTD by Program and Number of Households*					
**T-RAP 1.0 March 2022	**T-RAP 1.0 April 2022	**T-RAP 2.0 March 2022	**T-RAP 2.0 April 2022	**E-RAP 2.0 March 2022	**E-RAP 2.0 April 2022
Rental Assistance Given: \$3,961,220.50	Rental Assistance Given: \$6,097,324.31	Rental Assistance Given: \$66,785,307.11	Rental Assistance Given: \$35,421,866.64	Rental Assistance Given: \$11,193,384.96	Rental Assistance Given: \$7,033,320.29
Households Served: 692	Households Served: 1,004	Households Served: 8,300	Households Served: 3703	Households Served: 2,216	Households Served: 1,739
***T-RAP 1.0 (YTD) \$229,504,184.50	***Households Served (YTD) 32,459	***T-RAP 2.0 (YTD) \$103,757,769.38	***Households Served (YTD) 12,184	***E-RAP 2.0 (YTD) \$62,219,208.69	***Households Served (YTD) 12,888

Table provided by the Administrative Office of the Courts **Updated Statistics provided by the Dept. of Commerce *Indicates Year-To-Date (YTD) totals as provided by the Dept. of Commerce*

B. Successes

As there are challenges to new pilot programs, there are also successes and the ERPP is no exception. From a strictly statistical measure, ERPP has met the burden of its task and can proudly boast a settlement case rate of 78% and a 63% (average, statewide) tenant response rate.⁴ From the Court's perspective, statewide 10.8% of all Unlawful Detainer (UND) filings with the Superior Courts for nonpayment of rent were filings from cases that had been through the ERPP case process. This statistic indicates that the

⁴ DRCs reported the monthly percentage of tenants who responded to the DRC's attempts at contact starting in September 2021.

majority of ERPP cases were diverted from court and able to resolve through the ERPP.

Beyond the required performance measures, there are areas of success that cannot be numerically quantified. From its initial inception and throughout, the ERPP has afforded a unique opportunity for stakeholders of varied state agencies, attorney advocates, non-profits, rental assistance agencies, and Superior Courts to engage and collaborate. The prudent and highly productive efforts of the stakeholders have led to success in areas that have a profound effect on the state's population at large. With collaboration and diligence, an effort to bring justice to BIPOC and marginalized populations has been discovered anew. In addition, the ERPP has offered tenants an avenue to avoid eviction through mediation and landlords' access to funding to ensure mortgage payments are met in a timely fashion. In essence, the ERPP has provided the public with the necessary education and an increased understanding of housing stability issues and navigation of the legal system. The old adage proves correct, knowledge is power. The ERPP has and continues to perform a valued and commendable service for the residents of Washington state.

X. Appendix

Eviction Resolution Program Flow Chart

- [ERPP Process Flowchart](#)

Eviction Resolution Program Tenant Handouts:

- [Eviction Resolution Program Tenant Handout 2021.pdf \(wa.gov\)](#)
- [Eviction Resolution Pilot Program Handout Spanish.pdf \(wa.gov\)](#)
- [Eviction Resolution Pilot Program Handout Vietnamese.pdf \(wa.gov\)](#)
- [Eviction Resolution Pilot Program Handout Tagalog.pdf \(wa.gov\)](#)
- [Eviction Resolution Pilot Program Handout Russian.pdf \(wa.gov\)](#)
- [Eviction Resolution Pilot Program Handout Korean.pdf \(wa.gov\)](#)

XI. Acknowledgements

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