

Tenant Rights of Domestic Violence Survivors During COVID-19



A Resource for Domestic Violence and Housing Advocates

The current COVID-19 epidemic has created a public health crisis, including increased reports of the incidence of domestic violence in the midst of shelter-in-place orders. Thus, ensuring access to safe, decent, and affordable housing for survivors remains as important as ever. This advocate resource provides a brief overview of the housing rights of survivors in the context of COVID-19.



SURVIVORS CANNOT BE EVICTED BECAUSE OF THE VIOLENCE COMMITTED AGAINST THEM

Many states, localities, and the federal government (for certain types of housing) have put in place a "pause" on evictions during the COVID-19 pandemic. These pauses are also known as "eviction moratoriums." A number of these eviction moratoriums, however, still allow for evictions based on criminal activity and other lease violations. Unfortunately, survivors have historically been evicted for "criminal activity," damage to the unit, or other issues directly related to the abuse. It is critical that survivors not be evicted for the violence committed against them, or for seeking help such as calling 911. Advocates should be aware of these protections:

Survivors receiving an eviction notice during the pandemic should be connected with a housing attorney **immediately**, even if the survivor believes they are covered by an eviction moratorium.



- Evicting a female domestic violence survivor for the violence committed against her can violate the Fair Housing Act's prohibition on sex discrimination in most types of housing, including private, market-rate housing.
- Individual [states and localities](#) may also have other prohibitions against evicting someone because they are a survivor of domestic violence or other crimes, or for calling 911.
- The federal [Violence Against Women Act \(VAWA\)](#) (discussed below) protects survivors living in federal housing programs from being evicted or having a housing subsidy terminated because of the violence committed against them.



VAWA HOUSING PROTECTIONS STILL APPLY FOR TENANTS IN AND APPLICANTS FOR FEDERAL HOUSING PROGRAMS

VAWA offers housing protections for survivors of domestic violence, dating violence, sexual assault, and stalking in certain federal housing programs. Despite the name of the law, VAWA protections apply to survivors regardless of gender. These protections remain in effect during the COVID-19 pandemic. VAWA's housing protections include (but are not limited to):

- A prohibition on being evicted from or denied participation in a federal housing program (outlined on the next page) for being a survivor.

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- Requires receipt of a written notice of rights under VAWA upon admission, denial of housing, or notice of eviction/subsidy termination—including notification in non-English languages.
- Allows housing providers to "bifurcate" (split) a tenancy so that the abuser is removed from the household, without evicting or penalizing the survivor.
- Confidentiality requirements for housing providers, such as prohibiting placing information about a survivor's domestic violence, dating violence, sexual assault, or stalking in a shared database.
- The ability to request an emergency transfer to another safe and available federal housing program unit.

Federal Housing Programs Covered by VAWA

Public housing
 Section 8 Housing Choice Vouchers
 Section 8 project-based housing
 Section 202 housing for the elderly
 Section 811 housing for people with disabilities
 Section 236 multifamily rental housing
 Section 221(d)(3) BMIR
 HOME

Housing Opportunities for Persons w/ AIDS (HOPWA)
 McKinney-Vento Act homelessness programs (e.g., CoC, Emergency Solutions Grants)
 Housing Trust Fund (by HUD regulation)
 USDA Rural Development Multifamily Housing
 Low-Income Housing Tax Credit



ASSERTING VAWA & OTHER HOUSING RIGHTS DURING COVID-19

VAWA provides survivors who live in the federal housing programs listed above the option of completing a self-certification form to assert VAWA housing protections in most circumstances. This protection is critical during stay-at-home orders in place across the country, because it means that the survivor can assert VAWA protections without obtaining a police report or restraining order. Note, however, that housing staff are likely working remotely and may be slow to respond to requests. Advocates should also ensure that housing providers are taking steps to protect survivor confidentiality during remote work.

The U.S. Department of Housing & Urban Development (HUD), which administers most VAWA-covered housing programs, has [encouraged public housing authorities](#) (PHAs) to notify residents that PHAs can still process requests for protections under VAWA. HUD has also stated that local shelter-in-place orders do not "require anyone to stay in a violent or unhealthy situation, and that police officers can still visit any facility that is restricting visitors to respond to 911 calls."

States and localities [may also have protections](#) such as lock changes and early lease terminations for survivors who do not live in federal housing programs. Advocates should consult with a housing attorney to understand how these protections would apply in a particular situation.

This flyer is provided for informational purposes only and is not legal advice. Individuals needing legal advice should consult an [attorney where they live](#). Advocates needing training or technical assistance can learn more at nhlp.org/ovwgrantees.