



# COMMUNITY-BASED ADVOCATES TOOLKIT

How to make sure your clients  
have safe housing

A Resource Guide for Professionals Helping  
Domestic Violence, Sexual Assault,  
Stalking and Dating Violence Survivors

Published by the National Alliance for Safe Housing and  
the National Housing Law Project



May 2019

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# How to Make Sure Your Clients Have Safe Housing

## This toolkit for non-legal advocates can answer your questions.

Survivors of domestic violence, sexual assault, stalking and dating violence have housing rights under federal law, as well as under some state and local laws. These rights are meant to ensure survivors have access to and can safely live in shelter or housing. Survivors have housing rights whether they want to stay in their housing or move out and find another place to live — be it a shelter, apartment, or house.

In developing this Toolkit, we looked at the most common questions and situations presented by survivor advocates and homeless shelter and housing program advocates like yourself. While we cannot cover every situation, we did our best to give you the kind of information you need to feel empowered to do your job.

As an advocate, your role is to provide information and resources to survivors. This Toolkit will help you understand the basic housing rights of survivors and provide information to help survivors get assistance accessing their housing rights. According to survivors themselves, obtaining safe housing and economic stability is most often their immediate priority when seeking support.

The scenarios in the Toolkit are directly connected to laws that provide housing protections for survivors. In addition, this Toolkit provides overviews of those laws that may apply and gives sample demand letters that advocates and survivors can use to advocate for their rights.

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## Acknowledgments

Larisa Kofman, J.D., National Alliance for Safe Housing, and Karlo Ng, J.D., National Housing Law Project, are the primary authors of this Toolkit. The Toolkit would not have been possible without the support of the relentless advocates championing the housing rights of survivors and survivors who have bravely shared their stories and experiences. We would like to also thank the following advocates for taking the time to review and provide valuable feedback on the Toolkit:

- Laura Baxter, Project Woman of Ohio
- Gina Boesdorfer, The Friendship Center
- Barbara Buttes, PhD, Ponca Tribe of Nebraska
- Rachael Castro, Community Solutions to Violence
- Sherry Hartog, Dover Healing House
- Adriana RK Hastie, Certified Domestic Violence Counselor, Homestart, Inc.
- Claudia Hurtado-Myers, Bright Future Foundation
- Amanda Johnson, Underground Railroad, Inc.
- Natalie Skovran, Family Support Center of South Sound
- Samiah Slusser, Survivors, Inc.
- Sally Ulmer, Community Overcoming Relationship Abuse
- Landon "LJ" Woolston, Pridelines Miami LGBTQ Community Center
- Corae Young, LifeStyles of Maryland Foundation, Inc.

### OVW FUNDING

This project was supported by Grant No. 2015-SI-AX-K010 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

*Nothing in this Toolkit should be construed as legal advice. The materials provided in this Toolkit are for your personal and professional information and education. This Toolkit is not a substitute for good, sound legal advice, and should not be interpreted as such. The results of any legal matter may vary depending upon specific facts and applicable law. No prediction of results should be inferred from information contained in this Toolkit.*

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## Overview: Federal Housing Protections for Survivors

### Fair Housing Act

The federal Fair Housing Act (FHA) protects domestic violence survivors from discrimination in housing situations, regardless of whether the housing is supported financially by the government. Under the FHA, survivors have the right to:

- Be free from discrimination when seeking housing to buy or rent;
- Be protected from eviction;
- Be treated the same as other tenants or occupants by a housing provider; and,
- Request a reasonable accommodation, to ensure that someone with a disability has equal opportunity to use and enjoy housing.

For additional information about the Fair Housing Act, please go to [Domestic Violence and the Fair Housing Act: A Toolkit for Grantees](#).<sup>1</sup>

### Violence Against Women Act (VAWA)

VAWA provides housing protections for survivors of domestic violence, sexual assault, dating violence, and stalking who are applying for or living in federally assisted housing. The law applies to a survivor (actual or perceived) regardless of sex, gender identity, sexual orientation, disability or age.

VAWA does not apply to market-rate rental housing, unless a federal subsidy is involved. VAWA covers these federal housing programs:

U.S. Department of Housing and Urban Development (HUD): Public housing, Housing Choice Voucher program (Section 8), Project-based Section 8, Section 202 supportive housing for the elderly, Section 811 supportive housing for persons with disabilities, Section 236 multifamily rental housing, Section 221(d)(3) Below Market Interest Rate housing (BMIR), HOME, Housing Trust Fund, Housing Opportunities for Persons with AIDS (HOPWA), and McKinney-Vento Act programs (including Emergency Solutions Grants and Continuum of Care).

U.S. Department of Agriculture, Office of Rural Development (RD): Section 515 Rural Rental Housing, Section 514 and 516 Farm Labor Housing, Section 533 Housing Preservation Grant Program, and Section 538 Multifamily Rental Housing.

U.S. Department of Treasury: Low-Income Housing Tax Credit program (LIHTC).

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<sup>1</sup> <http://nhlp.org/files/NHLP%20DV%20Fair%20Housing%20Toolkit%20FINAL.pdf>

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Under VAWA, survivors who apply for or participate in the covered housing programs have the right to:

- Not be denied admission, not be evicted, and not have their assistance terminated because of the violence committed against them. For example, a housing provider cannot deny an applicant housing assistance because of domestic violence, sexual assault, stalking and dating violence, including if the survivor has a criminal history or poor credit history directly related to the violence;
- Get a notice of their housing rights under VAWA, Form HUD-5380 (see Appendix B, p.33), and VAWA self-certification form, Form HUD-5382 (see Appendix A, p. 31 ) from the housing provider when they are admitted into a housing program; or, when they are denied admission or assistance, or receive an eviction or termination notice;
- Request that an abuser be removed from the lease and housing, where applicable;
- For participants with Housing Choice Voucher assistance, move with continued assistance;
- Seek an emergency transfer to another unit in the same program and/or under another federally subsidized housing program;
- Stay in the unit, even if there is (or has been) criminal activity that is directly related to the violence;
- Strict confidentiality of information about the domestic violence, dating violence, sexual assault, or stalking, including their victim status. This information can only be shared if requested by the survivor in writing for a time-limited disclosure, is required for use in an eviction proceeding, or is otherwise required by law; and,
- Self-certify using the HUD self-certification form (Form HUD-5382 comes in 15 different languages (see Appendix A, p. 31, or [Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation](#)<sup>2</sup>). If there is conflicting information, a provider may ask for additional documentation.

There are some limitations to VAWA. Housing providers:

- Can still evict or terminate assistance for violations that are not related to VAWA reasons; and
- Can evict or terminate assistance of a survivor if the landlord can show that by not doing so, there would be an “actual and imminent threat” to other tenants or the staff who work at the property. In other words, the landlord must be able to show that allowing the survivor to remain in the unit poses a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. Importantly, HUD has emphasized that this exception must be used as a last resort after the landlord has explored alternatives that would keep tenants and staff safe while maintaining the survivor’s housing assistance.

**For additional information about VAWA, please [access the NHLP VAWA Brochure here](#)<sup>3</sup> or see Appendix C, p. 41.**

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<sup>2</sup> [https://www.hud.gov/program\\_offices/administration/hudclips/forms/hud5a#4](https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4)

<sup>3</sup> <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure-English-and-Spanish-combined.pdf>

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### Section 504 of the Rehabilitation Act (Section 504)

Section 504 prohibits discrimination against survivors with disabilities by housing providers that receive federal funding.

Under Section 504, survivors with a disability have the right to:

- Be protected from discrimination. For example, if a survivor of domestic violence is deaf or hard of hearing, the housing provider needs to find ways to make sure services and support are received as needed; if a survivor has a mental illness, the housing provider cannot deny housing/shelter;
- Confidentiality; and,
- Reasonable accommodations. For example, allowing a guide dog to stay with a program participant/tenant.

### Americans with Disabilities Act (ADA)

Survivors experiencing disabilities are entitled to protections under the ADA. It prohibits discrimination against individuals with disabilities in public accommodations and applies to all shelters operated by the government and to private shelters.

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## Overview: State and Local Housing Protections for Survivors

State and local housing protections are critical for survivors because they can provide more protections than federal laws. Protections that may exist on the state and local level include, but are not limited to, protection against discrimination, early lease termination (breaking a lease), eviction defense (helping to make sure survivors are not evicted if connected to domestic violence), lock changes, and protections for survivors who seek emergency and police assistance. While some state and local protections extend to sexual assault, stalking and dating violence survivors, not all of them do.

According to the National Housing Law Project (NHLP), as of December 2017:

- 24 state and local laws provide survivors with the **right to an eviction defense**.
- 7 state and local laws provide survivors with the **right to remove a batterer from a lease** in cases of domestic violence.
- 27 state and local laws provide survivors with the **right to get out of a lease early** because of domestic violence.
- 18 state and local laws give survivors the **right to request and receive lock changes**.
- 11 state and local laws **hold the abuser responsible** for damages to the unit, lock changes, and moving expenses.
- 19 state and local laws give survivors the **right to seek emergency and police assistance** (also known as nuisance protections or anti-nuisance ordinances).

To see whether there are additional housing protections for survivors in your area, see the National Housing Law Project's [Housing Rights of Domestic Violence Survivors: A State and Local Law Compendium](#).<sup>4</sup>

\* Please note the state and local housing protections in the Compendium may also apply to survivors of dating violence, sexual assault and stalking. The Compendium does not cover all the housing protections available to survivors.

Keep in mind that there may be additional tenant resources available locally. For example, there may be local county services that offer free conflict mediation in the case of landlord-tenant disputes. More information about who to contact and how to find out if your community has these protections please see Resources on p. 30.

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<sup>4</sup> <https://www.nhlp.org/wp-content/uploads/2018/07/2017-DV-State-and-Local-Housing-Laws-Compendium.pdf>

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## Understanding the Housing Protections

As an advocate, one of the most important things for you to know is that survivors of domestic violence, sexual assault, stalking and dating violence have housing rights. Here are a few housing scenarios that survivors commonly face in which federal laws provide protections. Depending on where you live, state and local laws may also apply to protect survivors. Although every scenario is different, common themes provide a basic understanding of what all advocates need to know about the protections that survivors have.

### Temporary Housing

#### Common Scenarios: Shelter and Housing Programs

#### (Domestic violence, homeless and housing programs/shelters, including Continuums of Care (CoCs))

#### **i** Survivor needs shelter or housing, but...

##### **Scenario 1**

Our program received a call from a woman who wondered if we had space. She said she was a survivor of domestic violence before I even asked. I asked her if she had a protection order, six months of counseling, and was no longer with her abuser, and she said, "no." I told her we couldn't take her, even though we had space. I thought she had to do these things before getting shelter, since she's a survivor.

**Answer:** The survivor has the right to shelter, even if there is no protection order, police report, counseling, or other documentation. A housing program cannot ask a survivor to do something they don't ask others seeking shelter/housing to do. This means if the program has a space, the survivor should not be turned away.

##### **Scenario 2**

We had space in our housing program and accepted a referral from a domestic violence program for a survivor seeking housing. But when she got here, she had a guide dog. We don't allow pets, so I told her that we couldn't take her.

**Answer:** The survivor has the right to keep a guide dog in the housing program. Guide dogs are not considered pets when someone has a disability. Usually service animals are dogs (with limited exceptions). On the other hand, emotional support animals, unlike guide dogs, are not considered service animals so a shelter or housing program does not have to accept an emotional support animal under federal law. There might be some state or local laws with additional protections that do include emotional support animals. Remember that housing programs can accept emotional support animals (if there is no state or local requirement) as well as companion pets, but do not have to.

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## **i** Survivor needs shelter or housing, but...

### **Scenario 3**

A program referred a survivor to our shelter, and we wanted to make sure she was a U.S. citizen, because our program receives federal funding. When we asked for a birth certificate or passport, she said she didn't have anything. We told her that we could not accept her.

**Answer:** The survivor has a right to shelter regardless of immigration status and regardless of whether the shelter program receives money from the federal government. Survivors have a right to shelter even if they do not have proof of citizenship or legal immigration status.

### **Scenario 4**

I am an intake counselor for our transitional housing program, and someone called seeking housing. I went through our intake form and asked for the person's name. When she told me, it sounded very familiar. I remembered having a conversation with a program participant a few months ago and the participant saying this woman was trouble, had an abusive girlfriend and drama in her life. When I recalled this information, I told her we couldn't take her.

**Answer:** The survivor has the right to housing. A housing program cannot deny housing to someone based on a belief that they are a survivor or a "problem client" because of what a third party said, or other information that may or may not be true about the person seeking housing.

### **Scenario 5**

We had space in our housing program for a survivor and her three children. However, one of the children was a 12-year-old boy and our program does not accept boys that age, even if the boy is the survivor's son. We gave her the option of coming into the shelter with her two younger children and finding another place for the 12-year-old boy to stay, or not coming at all.

**Answer:** The survivor and their dependent children - regardless of age - have the right to housing. If the housing program has space, the program cannot deny housing because the survivor has a male child over a certain age.

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## **i Survivor needs shelter or housing, but...**

### **Scenario 6**

A survivor who speaks only Vietnamese was referred to our housing program. While we had space, we had no one here who spoke her language. I let her know that we would not be the best place for her.

**Answer:** The survivor has the right to housing. A housing program cannot deny housing based on the survivor's limited English proficiency. The program should provide the survivor with access to a language access line for interpretation if they do not have a staff member or volunteer who speaks the language.

### **Scenario 7**

A program advocate was working to place a survivor through our Rapid Re-housing program with a new private housing provider. The private housing provider was uncomfortable adding language regarding VAWA housing protections to the lease.

**Answer:** If the program advocate works for an organization that is operating a housing program covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), then the law requires the private landlord to include language about VAWA protections in the lease, lease addendum, or housing contract.

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## **i** Survivor wants to stay, but...

### **Scenario 1**

We have a scattered-site transitional housing program. One of the participants came to me during our regular case management session and told me that he heard from a friend that his abusive ex-boyfriend now knows where he lives. He told me he wanted to stay in our program. I told him that he needed to leave the program immediately for his safety.

**Answer:** The survivor has a right to stay. Just because a survivor shares that the abuser knows where the survivor lives does not mean the program has the right to ask the survivor to leave. This is also a chance to do more safety planning with the survivor and organization staff. If the organization that is operating a housing program is covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), the survivor cannot be terminated from the program due to a threat of or an act of domestic violence (see *Sample Demand Letter 2* on p. 23).

### **Scenario 2**

During the intake process for my housing program, a staff person asked if the client was a survivor of domestic violence. The person did not share whether she was or not. During a case management session, I found out that she was a survivor. I told her she couldn't stay any longer because she lied during intake and this is not a housing program for victims.

**Answer:** The survivor has a right to stay because survivors can choose whether to share that they are a survivor. In fact, some survivors may not know or think that they are a survivor. A housing program cannot make the survivor leave because of this. Also, the client qualified for the housing program due to their homeless status, so whether or not the client is a survivor of domestic violence should not impact their right to stay in the housing program.

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## ① Survivor wants to stay, but...

### **Scenario 3**

During one of our scheduled meetings, my client, who lives in a communal transitional housing program, disclosed that her abuser contacted her via email to say that he knew where she was, and he was coming to get her. The abuser lives in another country. The survivor is not a danger to others, but I was concerned by the fact that the abuser said he knew where she was. I advised my client to begin searching for new housing because she could no longer stay in ours since it's communal.

**Answer:** The survivor has a right to stay in the current housing situation, regardless of the type of housing program it is. Just because a survivor shares that the abuser knows where the survivor lives, does not mean the program has the right to ask the survivor to leave. This is a chance for safety planning for both the survivor and the staff of the organization providing services. If the organization that is operating a housing program is covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), the survivor cannot be terminated from the program due to a threat of or an act of domestic violence (see *Sample Demand Letter 2* on p. 23).

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## Permanent Housing

### Common Scenarios: Rented or Owned Apartments/Houses

(Includes public housing, Section 8 housing, Continuum of Care, and other federally subsidized housing (supported financially by the federal government) as well as private housing [see p. 8 for more information about state and local protections that apply to private housing])

#### **i** Survivor needs a place to live, but...

##### **Scenario 1**

A survivor is looking for an apartment where a Section 8 voucher is accepted. She applies but gets rejected. She says she overheard one of the people who lives in the same apartment complex tell the manager that the survivor's current supervisor is stalking her, coming to her former apartment yelling and threatening her. The survivor thinks this is why she didn't get the apartment.

**Answer:** The housing manager cannot deny an applicant an apartment because the survivor is experiencing stalking or because the landlord *thinks* the applicant is being stalked.

##### **Scenario 2**

A survivor applied for housing but was denied because the criminal background check showed a previous arrest for prostitution and a conviction for distributing drugs 6 years ago.

**Answer:** The housing manager cannot deny an applicant housing based solely on an arrest without a conviction. If the reason for the arrest or drug conviction was related to domestic violence, sexual assault, dating violence, or stalking, that cannot be why the landlord denies the survivor's housing application. The survivor can advocate for the application to be reconsidered by sharing with the landlord that the arrest or conviction was connected to the violence committed against them.

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## **i Survivor needs a place to live, but...**

### **Scenario 3**

A survivor applied for housing but was denied. When he asked why, he was told that he had a poor credit history.

**Answer:** The survivor has the right to housing if the survivor's credit history is poor as a result of domestic violence (i.e. the abuser ruined the survivor's credit by maxing out credit cards, not making payments, or the survivor was not allowed to access money to make the payments). The survivor can request that the application be reconsidered and, if necessary, provide supporting documentation that demonstrates they would be a good tenant.

### **Scenario 4**

A public housing agency (PHA) notifies a tenant that she must pay for a broken bathroom door caused by a fight that happened between the survivor and her boyfriend. The survivor explains that her boyfriend broke down the door when she fled to hide in the bathroom when he tried to hit her. The PHA insists that the survivor pay the \$300 to replace the door but says that they are willing to work out a payment plan with her. The survivor does not have the money and fears that she will face eviction if she cannot pay.

**Answer:** The PHA cannot force the survivor to pay for the property damage caused by the abuser or threaten eviction or subsidy termination because of the damage to the unit. If requested by the PHA in writing, the survivor may have to provide documentation about the domestic violence and the most recent incident that led to the property damage. The survivor can then use HUD's VAWA self-certification form (see Appendix A, p. 31) or any other documentation that the survivor feels is safe to use, such as a police report, protection order, or verification provided by a domestic violence caseworker.

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## **i** Survivor needs to keep someone out of the housing, but...

### **Scenario 1**

A survivor asks her landlord to take her husband off the lease because he has been threatening her and has hit her. She wants to stay in her apartment with her kids. The landlord is unsure if this is legal and allowable.

**Answer:** The survivor may have the right to request that the landlord provide a lease bifurcation, which would remove her husband from the lease and leave it in the survivor's name. There are a number of state and local laws that give survivors the right to ask that their abuser be taken off the lease and some state or local laws also give survivors the option of asking for a lock change. Some laws do need the survivor to provide support documentation of the domestic violence, such as a police report, before they can remove the abuser from the lease.

If this is federally assisted housing, including a housing program covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), survivors can ask their landlord to remove the abuser's name from the assistance or unit, but the housing provider decides whether to do so (see *Sample Demand Letter 1*, p. 21). The survivor also has the right to ask for an emergency transfer or to port (if the survivor has a Section 8 voucher, they can move with the voucher to another location or go somewhere else with the voucher). If the voucher is in the abuser's name, the survivor can ask that the housing authority place the voucher only in the survivor's name, if the survivor qualifies for Section 8 (see *Sample Demand Letter 4*, p. 26).

### **Scenario 2**

The survivor lives in a Section 8 unit and is scared of her partner. The voucher is only in her partner's name. The survivor wants to get her partner out of the unit, and she wants to stay.

**Answer:** The survivor has the right to ask the housing manager to remove the partner's name from the lease and the unit. Since the voucher is in the partner's name, the survivor can also request that the housing authority take the partner's name off the voucher and place the voucher in the survivor's name because of domestic violence, if the survivor qualifies for Section 8. The survivor can self-certify (see p. 5 for a list) if asked by the housing provider to provide support documentation of the abuse (see *Sample Demand Letter 4*, p. 26).

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## ① Survivor wants to stay in housing, but...

### Scenario 1

A survivor's boyfriend lives with her. A few weeks ago, she called the police because he punched her. The other day he attacked her again, and she called the police. The landlord came over to the apartment and told the survivor if she called the police again, she was going to get kicked out.

**Answer:** The survivor has the right to call the police or other emergency assistance without being threatened with losing their housing. There are a number of state and local laws that protect survivors from nuisance ordinances that may penalize a landlord or tenant through fines, evictions or other penalties if there are noise disturbances or calls to emergency services.

### Scenario 2

A survivor is scared because she lives on the first floor of her building and she worries that her abuser will break in and hurt her. She asked the landlord to install bars but was refused.

**Answer:** The survivor has the right to request the addition of bars or a lock change if the survivor feels their safety is at risk. There are a number of state and local laws that give the survivor the right to ask for security improvements and lock changes. Depending on the law, the housing provider pays for the security improvements or they can request that the survivor pay for them (but not more than any other tenant would pay).

### Scenario 3

A survivor is scared of his boyfriend who does not live with him. The boyfriend is not on the lease, but has copies of the key to his apartment and lets himself in.

**Answer:** The survivor has the right to ask the housing provider to change the locks. There are a number of state and local laws that give the survivor the right to ask for the locks to be changed. Generally, the survivor must request for the locks to be changed and provide appropriate documentation. The locks must then be changed by the housing provider within a certain number of days (depending on where the survivor lives) but the survivor is usually responsible for the cost of the lock change. There are different resources available to help the survivor cover the cost (see Resources, p. 30, for organizations to contact for more information).

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## **i Survivor wants to stay in housing, but...**

### **Scenario 4**

A survivor has been told by her landlord that she is being evicted because other tenants have been complaining about the noise in her apartment. The only noise she can think of is her crying when her boyfriend hits her or when they argue.

**Answer:** The survivor has a defense to the eviction because the noise complaints are connected to domestic violence. If this is private housing, some state and local laws allow for this defense against eviction. Depending on where the survivor lives, the landlord may ask the survivor for support documentation, and a survivor can provide a police report, protection order, or proof provided by certain professionals, including victim service providers. The survivor can provide this when given the eviction notice or during a hearing. If this is federally assisted housing, including a housing program covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), the survivor has the right to not have the lease terminated and for the assistance to be reinstated immediately (see *Sample Demand Letter 2*, p. 23).

### **Scenario 5**

A survivor wants to renew his lease, but he is told that the police have been called too many times and they will not renew. The only times the police have been called is when he has been hit by his boyfriend or because his boyfriend has scared him.

**Answer:** The survivor cannot be told that renewing the lease is not possible if the reason for the denial is connected to domestic violence. If this is private housing, some state and local laws are in place to ensure survivors can renew their lease. Depending on where the survivor lives, the landlord may also ask for support documentation. If this is federally assisted housing, including a housing program covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), the survivor has the right to not have the lease terminated and for the assistance to be reinstated immediately (see *Sample Demand Letter 2*, p. 23).

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## **i Survivor wants to stay in housing, but...**

### **Scenario 6**

A survivor was sexually assaulted by another tenant living in the same building (who she only knew as an acquaintance). She tells her landlord that she doesn't feel safe living in her unit but doesn't want to move. Her landlord tells the survivor that there isn't much that he can do other than to transfer her to another unit across town.

**Answer:** The landlord cannot force the survivor to leave the unit because of the sexual assault committed against her. In most states, landlords have an obligation to keep their tenants safe where they live, especially if they know of danger that would likely occur to tenants. Here, if the landlord does not take steps to protect the survivor, including by evicting the abuser, the landlord could be responsible for any further injuries experienced by the survivor.

If this is a federally assisted unit, including a housing program covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), and the landlord wants documentation of the sexual assault, the landlord must make a request in writing to the survivor. The survivor will then have 14 business days to respond to the request by providing a form of documentation that is safest for the survivor to use. The landlord cannot require that a certain form of documentation be used (the survivor decides which form of documentation to use), unless there is conflicting information.

### **Scenario 7**

A survivor was beaten up in her apartment by her ex-girlfriend. Even though the abuser did not live with her, she found out where the survivor lived and entered without her permission. The survivor called the police. Three days later the housing manager came to the survivor's apartment and told her she had to move out, because she shouldn't have called the police and they don't support her lifestyle. The housing manager told her she couldn't believe women beat each other up.

**Answer:** The survivor has the right to call the police or other emergency assistance without being threatened with losing their housing. Under federal and some state or local laws, the survivor also has the right to be treated like other tenants and not be treated differently because of being gay, lesbian, bi-sexual or transgender. If this is federally assisted housing, including a housing program covered by VAWA, such as housing and homeless assistance programs funded by a Continuum of Care (CoC) (see p. 5 for a list), the survivor has the right to not have the lease terminated and for the assistance to be reinstated immediately (see *Sample Demand Letter 2*, p. 23).

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## **i** Survivor needs to leave, but...

### **Scenario 1**

A survivor is scared for her safety because of her boyfriend's abusive behavior. She has eight months left on her one-year lease and needs her security deposit to help pay for a new place, but her landlord wants to charge an early termination fee and take it out of her security deposit. She is not sure what her options are.

**Answer:** In many states, the survivor has the right to contact the housing manager and leave the apartment within a certain amount of time after giving written notice (the amount of time differs depending on where the survivor is located). There are several state and local laws that allow the survivor to get out of the lease early because of domestic or sexual violence. In these locations, the survivor is only responsible for rent for a specific amount of time and not the rest of the lease term. Depending on where the survivor lives, the survivor may need to make the request in writing and provide the housing manager with a form of support documentation. In some places, there is a specific time frame after the violence occurs, during which the survivor can request to be released from the lease. In many states, the survivor should also receive the security deposit after no longer living in the apartment, unless there is another reason (not connected to the violence) for the housing provider to keep a portion or all of it.

### **Scenario 2**

A survivor moved out of her apartment, but the housing provider took some of her security deposit for a hole in the wall caused when her boyfriend punched it. It happened during a fight with her boyfriend when he lived with her.

**Answer:** Damages caused by domestic violence are the responsibility of the abuser. If this is private housing, there are some state and local laws that make clear that the survivor is not responsible for damages. In addition, landlords should not have double standards where they charge survivors for property damages, but they do not charge other tenants for property damage caused, for example, by a burglar.

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**i Survivor needs to leave, but...**

**Scenario 3**

A survivor lives in public housing and is scared for her safety because her boyfriend has recently started to hit her, when before he would just put her down verbally. She's unsure of what to do, but knows she wants to leave. She has lived in the same unit for 1½ years. She goes to the property manager to express her concern and to ask if she can be given another unit in another location because she fears her boyfriend. The property manager tells her no.

**Answer:** The survivor has the right to transfer to another public housing unit. In addition, the landlord should have given the survivor the notice of VAWA housing rights (form HUD-5380 – see Appendix B, p. 33) and the VAWA self-certification form (Form HUD-5382 – see Appendix A, p. 31). If the landlord did not provide these forms, they must be provided as soon as possible so that the survivor can understand their VAWA housing rights and, if necessary, use the self-certification form to provide documentation when asking for VAWA protections from the property manager.

**Scenario 4**

A survivor told his landlord that his partner had been physically abusive towards him for several months and, because of the violence, he wanted to terminate his lease and port the voucher to a nearby city. The Section 8 voucher is in his abusive partner's name. The survivor had called the police to the unit a few times because of the abuse and showed the landlord the police reports. The landlord then spoke to one of the survivor's neighbors, the landlord's cousin, asking if they knew about what was happening between the survivor and his partner.

**Answer:** The landlord cannot discuss the details of the survivor's abuse with other people, unless the survivor provides written permission to disclose this information in a time-limited release. The landlord also cannot investigate the survivor's situation. The only exception is if the landlord obtains conflicting evidence about what happened. Even then, the landlord can only request that the individuals involved provide additional documentation. In addition, if the Section 8 voucher is in the abuser's name, the voucher can be transferred to the survivor if a family break up happens, in this case due to domestic violence (see *Sample Demand Letter 4*, p. 26).

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## Sample Demand Letters

These sample demand letters are for housing that includes public housing, Section 8 housing, other subsidized housing, including Continuum of Care housing and homeless assistance programs. They apply to domestic violence, sexual assault, stalking or dating violence. They are a sampling of common scenarios but do not include every scenario and are not for private market housing. If you need assistance with a demand letter that is not included, please reach out to either your state or local legal service provider or the National Housing Law Project or National Alliance for Safe Housing (organization information can be found in Resources, p.30).

### Sample 1

**Survivors can use this sample letter if they need to get the abuser off their lease.** It is called a “Request to Bifurcate Lease Agreement.” Bifurcate means to take a person off a lease without their permission, while allowing the survivor and other household members to remain in the unit.

[Tenant Name]

Address:

Date:

[Housing Provider]

Address:

**Re: Request to Bifurcate Lease Agreement pursuant to the *Violence Against Women Act of 2013***

Dear Housing Provider:

I, [Name of survivor], am writing to formally request a bifurcation of the lease agreement on my rental unit at [Address of unit], which will remove [Name of person to be removed from the lease) from the lease and end [Name of person to be removed from the lease] tenancy.

As stated in the *Violence Against Women Act of 2013*, covered housing providers, including providers of [housing program at issue], are permitted to change the lease of any tenant who is a victim of domestic violence, sexual violence, dating violence, and stalking (VAWA crimes), to end the abuser’s tenancy and allow the victim to remain in the home with the rest of their household. Housing providers must follow federal, state, and local laws when terminating the abuser’s tenancy.

If you wish, you may request in writing that I provide documentation of my status as a victim of a VAWA crime, as stated in the *Violence Against Women Act* (such as a HUD self-certification form; a written and signed statement from a victim service provider, medical personnel, mental health professional, attorney, or police; or court records). Any information provided to you **must** be kept strictly confidential.

If you have any questions, please contact me at \_\_\_\_\_. Thank you.

Sincerely,

[Signature]

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## Sample 2

Survivors can use this sample letter if their housing assistance was terminated because of domestic violence, stalking, dating violence or sexual assault. This letter is directed to the local public housing authority for housing that includes public housing, Section 8 housing, or other subsidized housing, such as if an organization is operating a housing and homeless assistance program funded by a Continuum of Care (CoC) (see p. 5 for a list). This sample letter is not for private market housing that is not federally subsidized.

Date:

[Housing Authority/Continuum of Care funded housing program/provider]

Address:

**Re: Housing Assistance Termination Due to [Domestic Violence, Sexual Assault, Stalking, Dating Violence]**

Dear [Executive Director or Program Director],

On [date], [Housing Authority/Continuum of Care funded housing program/provider] terminated [survivor]'s housing assistance, stating that the termination was because [reason provided for why it terminated the assistance]. However, [stated reason for termination] was actually the result of [domestic violence, sexual assault, stalking, dating violence].

The Violence Against Women Reauthorization Act of 2013 (VAWA) protects tenants and family members of tenants who are victims of domestic violence, sexual assault, stalking or dating violence from being evicted or terminated from housing assistance based on acts of such violence committed against them. These provisions apply to public housing agencies, Section 8 programs and other covered housing programs, including Continuum of Care-funded housing providers. *See generally* 24 C.F.R. Part 5, Subpart L – Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking; HUD, Notice PIH-2017-08 (HA), *Violence Against Women Reauthorization Act of 2013 Guidance* (May 19, 2017).

Here, [survivor] is a victim of [domestic violence, sexual assault, stalking, dating violence]. [Describe the history of abuse/incidents and the relation to the Housing Authority/Continuum of Care funded housing program/provider reason for termination, including specific incidents and dates. If available, provide documentation of abuse/incidents, such as police reports. If the [Housing Authority or Continuum of Care funded program/provider] had previously been informed of the abuse/incidents, state that here as well.]

*Continued next page*

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## Sample 2 continued

VAWA forbids housing authorities and Continuum of Care-funded housing programs/providers from using domestic violence, sexual assault, stalking or dating violence as a basis for termination of assistance. “An incident of actual or threatened domestic violence . . . shall not be construed as (1) a serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or (2) Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.” 24 C.F.R. § 5.2005(c). Additionally, while housing authorities may terminate assistance on grounds other than domestic violence, sexual assault, stalking or dating violence, the termination cannot be based on the violence. 24 C.F.R. § 5.2005(d)(2).

[If available, also state any applicable state or local law pertaining to housing protections for survivors. For information about whether your state or locality has additional housing protections for survivors, see the National Housing Law Project’s [Housing Rights of Domestic Violence Survivors: A State and Local Law Compendium](#).<sup>5</sup>]

The [Housing Authority or Continuum of Care funded housing program/provider] cannot ignore the underlying reason for [stated reason for termination]. [Reiterate how the abuse is connected to the reason for termination.]

By terminating [survivor]’s housing assistance because of incidents resulting from [domestic violence, sexual assault, stalking, dating violence], the [Housing Authority or Continuum of Care-funded housing program/provider] is in violation of VAWA [and state/local law, if applicable]. I urge you to reconsider this decision and restore [survivor]’s assistance as soon as possible.

Thank you in advance for your time, you can contact me at [phone number/email] to discuss this matter further.

Best regards,  
[Signature]

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<sup>5</sup> <https://www.nhlp.org/wp-content/uploads/2018/07/2017-DV-State-and-Local-Housing-Laws-Compendium.pdf>

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### Sample 3

Survivors of domestic violence can use this sample letter if they are on a Section 8 voucher wait list and have broken up with a partner because of domestic violence and the housing authority policy assigns the waitlist position to the head of household who is the abuser. This letter is directed to the local housing authority.

Date:

[Housing Authority]

Address:

**Re: Family Break-up while on Section 8 Voucher Waitlist Due to Domestic Violence**

Dear [Executive Director or Program Director],

I am writing regarding [Housing Authority's] policy in cases where a family on the Section 8 voucher waitlist has broken up due to domestic violence. It is my understanding that under [Housing Authority's] current policy, if a family on the voucher waitlist breaks up, the waitlist position is automatically assigned to the head of household. Other members of the family who no longer reside with the head of household lose their position on the waitlist.

The policy of assigning the voucher waitlist position to the head of household could have a harmful impact on domestic violence survivors who are trying to leave their abusers. If a survivor currently lives with their abuser, and the abuser is listed as head of household on the voucher application, the survivor will be forced to choose between staying with their abuser or losing their spot on the voucher waitlist. In an effort to maintain control over their victims, abusers frequently deny their victims any access to the family's finances or other resources. As a result, in a domestic violence relationship, it is highly likely that the abuser will have listed themselves as the head of household on the voucher application.

Automatically granting the voucher waitlist position to the abuser/head of household could violate the Violence Against Women Act (VAWA). This law states that the fact that a voucher applicant has been a victim of domestic violence is not an appropriate basis for denial of Section 8 assistance. Refusing to maintain a victim's spot on the voucher waitlist because they are not the head of household is essentially the same as denying their assistance because they have been a victim of domestic violence. More than likely, the victim is not listed as the head of household because the abuser has listed themselves as head of household in order to maintain power and control over the victim.

*Continued next page*

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Sample 3 continued

Further, the head of household policy may also have a disparate impact on female victims of domestic violence in violation of the Fair Housing Act. The majority of domestic violence survivors are women. As a result, in households where domestic violence is occurring, it is likely that the head of household on the voucher application will be male. A policy that automatically assigns the voucher to the head of household in cases of domestic violence will, therefore, have a discriminatory impact on female victims of domestic violence.

We recommend that [Housing Authority] amend its breakup policy for families on the voucher waitlist. Head of household status should not be determinative because of the potential negative impact on victims of domestic violence. We suggest that [Housing Authority] amend its Section 8 Administrative Plan to include the following policy: "If a family on the waiting list breaks up, the PHA has discretion to determine which family members will retain the family's position on the waiting list. However, if a court assigns the family's position on the waiting list to particular family members in a divorce or separation under a settlement or judicial decree, the PHA must assign the waiting list position as directed by the court.

"In the absence of a judicial decision, the PHA will consider the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence, dating violence, sexual assault, or stalking, and (4) the recommendations of social service professionals. Head of household status shall not be determinative. "The PHA will prioritize victims of actual or threatened domestic violence, dating violence, sexual assault, or stalking where that violence is a contributing cause of the household breakup. However, if there are minor children in the family and the children do not primarily reside with the victim, the PHA may choose not to apply this subsection in order to keep the assistance with the children."

I look forward to speaking with you further about this matter. I can be reached at [phone number].

Best regards,  
[Signature]

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## Sample 4

Survivors of domestic violence, sexual assault, dating violence, or stalking can use this sample letter to request that a Section 8 voucher be transferred to the survivor if a family break-up happens because of domestic violence, sexual assault, dating violence, or stalking. This letter is directed to the local housing authority.

Date:

[Housing Authority]

Address:

**Re: Request that Voucher be Transferred to [Survivor] Due to Family Break-up Caused by [Domestic Violence, Sexual Assault, Dating Violence, or Stalking]**

Dear [Executive Director or Program Director],

I am writing regarding [survivor]'s Section 8 Housing Choice Voucher. [Survivor] and [abuser] are participants in the Section 8 Voucher program administered by [Housing Authority]. Currently, [abuser] is listed on the voucher as the head of household, but [survivor] is requesting that the [he/she/they] be made head of the household on the voucher, that [abuser]'s name be removed, and that the family's portion of the rent be recalculated without [abuser] so that [survivor and children, if applicable] can escape the [domestic violence, sexual assault, dating violence or stalking] perpetrated by [abuser] while maintaining [his/her/their] voucher.

[Describe the history of abuse, including specific incidents and dates. If available, provide documentation of abuse, such as police reports.]

[If applicable, discuss the survivor or the abuser moving out, or how they are trying to move out.]

The Violence Against Women Reauthorization Act of 2013 (VAWA) protects tenants and family members of tenants who are victims of domestic violence, sexual assault, dating violence and stalking from being evicted or terminated from housing assistance based on acts of such violence committed against them. These provisions apply to both public housing agencies and Section 8 programs. *See generally* 24 C.F.R. Part 5, Subpart L – Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking; HUD, Notice PIH-2017-08 (HA), *Violence Against Women Reauthorization Act of 2013 Guidance* (May 19, 2017).

*Continued next page*

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Sample 4 continued

Furthermore, HUD requires that when a family break-up occurs due to domestic violence, dating violence, sexual assault or stalking a housing authority must “ensure that the victim retains assistance.” 24 C.F.R. § 982.315(a)(2). Therefore, the voucher must be placed in [survivor]’s name so that [he/she/they] will not lose [his/her/their] housing assistance as a result of fleeing domestic violence, and so that [Housing Authority] is in compliance with VAWA.

Under [applicable section from the Housing Authority’s Section 8 Administrative Plan that discusses Family Break-Ups], when determining which family member will maintain a voucher after a family break-up, the Housing Authority must consider [list factors or other applicable language in the section].

Under these criteria, [survivor] should retain the voucher because . . . [apply relevant criteria listed above, i.e. whether the survivor has children, still resides in the shared residence, etc.].

The [applicable section of Administrative Plan that discusses rent calculations after Family Break-Ups] also provides that [state language of rent recalculation policy to reflect current household].

Can you please contact me at [phone number/email] to discuss transferring the Section 8 Voucher to [survivor], making [him/her/them] the head of household, removing [abuser]’s name, and recalculating the household income.

Thank you in advance for your time, I look forward to speaking with you further about this matter.

Best regards,  
[Signature]

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## Glossary

**Bifurcate:** To separate or a cut person out of a lease without their permission, while allowing other tenants to remain on the lease.

**Business Day:** Most commonly Mondays through Fridays, not including holidays and weekends.

**Communal Transitional Housing:** Similar to shelter design, it may have separate/private bedrooms but share common space such as living room, dining room, kitchen, etc.

**Continuum of Care:** Is designed to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; promote access to and effect utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

**Give Notice:** To tell the landlord or housing provider of anything — from a demand to change locks to the victim’s intent to leave. It usually must be done in writing.

**HUD:** The acronym for the U.S. Department of Housing and Urban Development, the federal government agency in charge of many affordable housing programs.

**Protection Order:** A temporary or final court order that forbids a person from committing violent or threatening acts or harassing, contacting or communicating with, or being close to, another individual.

**Public Housing:** Government built, owned, and operated housing that is typically made available to low-income individuals and families at reduced rents.

**Public Housing Authority:** An agency in charge of administering the public housing and Section 8 voucher programs.

**Reasonable Accommodation:** A “reasonable accommodation” is a change, exception, or adjustment made to meet the needs of someone with a disability so that person can have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.

**Scattered Site Transitional Housing:** Residents live in an apartment in the community in a full market rent unit, most often holding the lease in their own name. The model can allow for survivors to remain in the unit once the financial assistance has ended.

**Section 8 Housing Choice Voucher:** An affordable housing program offered by the federal government, as rental vouchers to reduce rents for low-income individuals and families.

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## Resources

- ❖ **American Civil Liberties Union Women’s Rights Project, Safe at Home:** Provides valuable resources, fact sheets, blog posts, policy advocacy and case law specific to housing issues impacting domestic and sexual violence survivors. [aclu.org/other/safe-home](https://aclu.org/other/safe-home)
- ❖ **National Housing Law Project (NHLP):** NHLP provides technical assistance, training, resources, and support to survivor advocates, housing advocates, legal services attorneys, and housing providers across the country on a variety of matters impacting the housing rights of domestic and sexual violence survivors. [nhlp.org/OVWgrantees](https://nhlp.org/OVWgrantees)
- ❖ **National Alliance for Safe Housing (NASH):** NASH ensures that survivors of domestic and sexual violence have a full range of safe housing options, through improved access, increased resources, and innovative solutions, ultimately catalyzing a safe housing movement. [nashta.org](https://nashta.org)
- ❖ **National Domestic Violence Hotline:** Provides seven days a week, confidential and free of cost lifesaving tools and immediate support to enable victims to find safety and live lives free of abuse. (1-800-799-7233, 1-800-787-3224 (TTY) [thehotline.org](https://thehotline.org)
- ❖ **National Law Center on Homelessness and Poverty (NLCHP):** NLCHP advocates for families and individuals that need access to housing. Advocates can find resources and materials specific to domestic violence and homelessness. [nlchp.org](https://nlchp.org)
- ❖ **National Network to End Domestic Violence (NNEDV):** NNEDV, a social change organization, is dedicated to creating a social, political, and economic environment in which violence against women no longer exists. [nnedv.org](https://nnedv.org)
- ❖ **Rape, Abuse & Incest National Network (RAINN):** RAINN created and operates the National Sexual Assault Hotline in partnership with more than 1,000 local sexual assault service providers across the country, and carries out programs to prevent sexual violence, help survivors, and ensure that perpetrators are brought to justice. (1-800-656-4673) [rainn.org](https://rainn.org)
- ❖ **Safe Housing Partnerships:** The website for the Domestic Violence and Housing Technical Assistance Consortium, provides useful resources and tools on the critical intersection of domestic violence, sexual assault, homelessness and housing. Advocates can find a range of resources, including but not limited to toolkits, policies, laws and regulations. [safehousingpartnerships.org](https://safehousingpartnerships.org)
- ❖ **Womenslaw.org:** A project of the National Network to End Domestic Violence, provides state-specific legal information and resources for survivors of domestic violence. [womenslaw.org](https://womenslaw.org)
- ❖ For more information about state or local legal services, please visit: <https://www.ncsc.org/topics/legal-services/legal-aid-pro-bono/state-links.aspx> or <https://www.lawhelp.org/find-help>
- ❖ For more information about state domestic violence coalitions, please visit: <http://bit.ly/NNEDVcoalitions>

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## Appendix A

### Self-Certification Form: HUD Form 5382

The below form is intended to familiarize readers with the document. All persons wishing to use this form with clients should [access the original document here](#).<sup>6</sup>

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

Form HUD-5382  
(12/2016)

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<sup>6</sup> <https://www.hud.gov/sites/documents/5382.docx>

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_  
\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_  
\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

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## Appendix B

### Notice of Occupancy Rights: HUD Form 5380

The below form is intended to familiarize readers with the document. All persons wishing to use this form should [access the original here](#).<sup>7</sup>

NOTICE OF OCCUPANCY RIGHTS UNDER  
THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development  
OMB Approval No. 2577-0286  
Expires 06/30/2017

**[Insert Name of Housing Provider<sup>1</sup>]**

#### **Notice of Occupancy Rights under the Violence Against Women Act<sup>2</sup>**

##### **To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>3</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **[insert name of program or rental assistance]** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

##### **Protections for Applicants**

If you otherwise qualify for assistance under **[insert name of program or rental assistance]**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

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<sup>1</sup> The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD’s program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

<sup>2</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>3</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Form HUD-5380  
(12/2016)

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<sup>7</sup> <https://www.hud.gov/sites/documents/5380.docx>

**Protections for Tenants**

If you are receiving assistance under **[insert name of program or rental assistance]**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **[insert name of program or rental assistance]** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

**Removing the Abuser or Perpetrator from the Household**

HP may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HP chooses to remove the abuser or perpetrator, HP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

**(2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HP's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

HP can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HP must be in writing, and HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HP as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HP does not have to provide you with the protections contained in this notice.

If HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HP does not have to provide you with the protections contained in this notice.

**Confidentiality**

HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HP must not allow any individual administering assistance or other services on behalf of HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HP must not enter your information into any shared database or disclose your information to any other entity or individual. HP, however, may disclose the information provided if:

You give written permission to HP to release the information on a time limited basis.

HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.

- A law requires HP or your landlord to release the information.

VAWA does not limit HP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

**Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HP can demonstrate the above, HP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

**Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled

to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

**Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at **[insert Federal Register link]**.

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

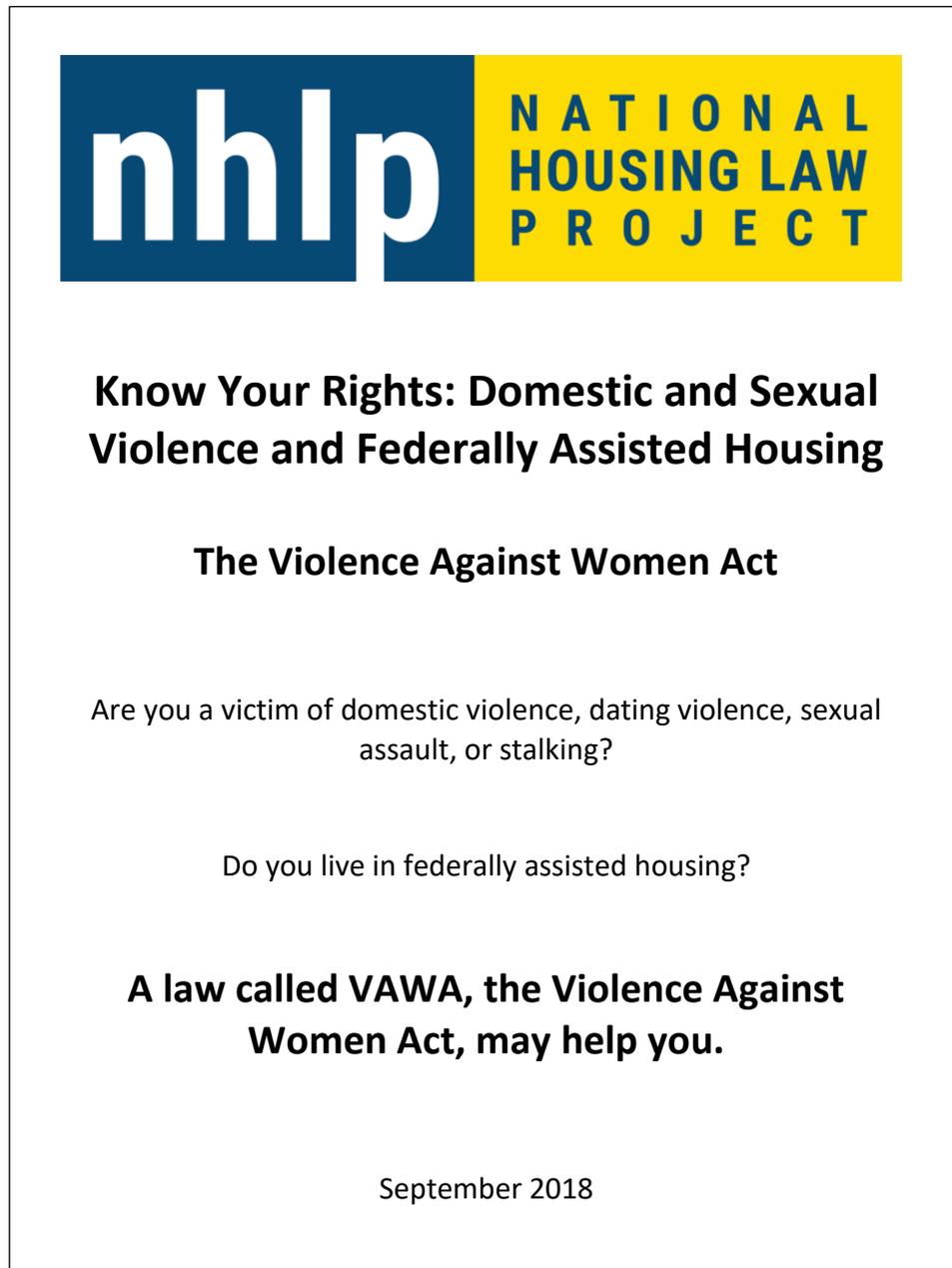
**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**

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## Appendix C

### NHLP VAWA Brochure

The 2017 *NHLP VAWA Brochure (English/Spanish Combined)* is available for [download here](#).<sup>8</sup>



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<sup>8</sup> <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure-English-and-Spanish-combined.pdf>

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## **The Rights of Domestic and Sexual Violence Victims: Applying for and Living in Federally Assisted Housing**

### **1. What is VAWA?**

The Violence Against Women Act (VAWA) is a law that protects victims and threatened victims of domestic violence, dating violence, sexual assault, and stalking from being discriminated against by certain housing providers because of the abuse committed against them.

### **2. Am I covered by VAWA's housing protections?**

VAWA protects victims of domestic violence, dating violence, sexual assault, and stalking. You don't have to be married to or living with the abuser to be protected by VAWA.

VAWA applies to you if you are applying for or are a tenant in any of these programs:

- Public housing;
- Section 8 Housing Choice Vouchers;
- Section 8 project-based housing;
- Section 202 housing for the elderly;
- Section 811 housing for the disabled;
- Section 236 multifamily rental housing;
- Section 221(d)(3) Below Market Interest Rate (BMIR);
- HOME;
- Housing Opportunities for People with Aids (HOPWA);
- Continuum of Care and Emergency Solutions Grants programs;
- Housing Trust Fund;
- Rural Development multifamily housing; &
- Low-Income Housing Tax Credit (LIHTC) housing.

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### **3. Does VAWA apply to private, market-rate housing?**

No. VAWA does NOT cover private housing that does not receive federal assistance. The rights described in this flyer apply only to the above-listed federal housing programs. However, there may be laws in your state or city/town/county that protect victims in market-rate housing. You can contact your local legal aid office or domestic and sexual violence agency to see if there are state and local laws that protect you.

### **4. What rights does VAWA offer?**

If you are a victim of domestic violence, dating violence, sexual assault, and stalking,

- You can't be denied admission or federal rental assistance just because you are or have been a victim or threatened victim.
- You can't be evicted or lose your federal rental assistance just because you are or have been a victim or threatened victim.
- You can't be denied admission or rental assistance, evicted, or lose your subsidy for reasons related to the abuse, such as bad credit history and criminal history.

### **5. What if I need to get the abuser out of the home?**

If someone living in your home uses violence against you, the housing authority or your landlord may evict the abuser alone, and let you, your family, and other household members stay in the home. If you are not listed as head of household or your name is not on the rental assistance, then you generally have 90 days or until the end of the lease to establish eligibility for that subsidy or another housing subsidy, or to find new housing.

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## **6. What if I need to move to escape the abuse?**

If you have a Section 8 voucher, you can move for reasons related to the abuse and keep your voucher — even if your lease has not ended.

Housing authorities and landlords must have adopted emergency transfer plans by June 14, 2017 that allow transfers to other federally assisted housing that is available and safe. You are allowed to transfer if you ask your landlord and reasonably believe you are about to be hurt by more abuse, or if you have been a victim of sexual assault that occurred on the property up to 90 days before the request. If your landlord does not have an emergency transfer plan, contact your local legal aid office or domestic and sexual violence agency.

## **7. How do I prove that I can use VAWA's protections?**

The housing authority or your landlord may ask for documentation showing that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing provider must make this request in writing. There are three ways to show that you are a victim:

- Complete a self-certification form. The form will ask for: your name; the name of your abuser (if known and safe to provide); the abuser's relationship to you; the date, time and place of the violence; and a description of the violence. To get the form, Form HUD-5382, go to <https://bit.ly/2E14cNF>, call the housing authority or a legal aid office. In the future, the form may be changed.
- Provide a letter signed by a victim service provider, attorney, or a medical or mental health professional who has helped you with the abuse (also called "third-party documentation"). You must also sign this letter.
- Provide a police report, court record (such as a restraining order), or administrative record.

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You can pick any of these choices. Unless the abuser also produces similar proof, a landlord cannot make you choose any particular kind of proof or more than one type. The landlord must give you at least 14 business days (weekends and holidays do not count) to provide proof of the violence.

**8. What happens if the abuser also submits a certification claiming that he or she is a victim?**

If the landlord receives proof from the abuser claiming that they are the victim, then the landlord may require you to submit additional proof to show that you are a victim.

**9. Can a landlord share the information I provide about the abuse with others?**

No, except in limited cases. The housing authority or landlord cannot give the information you provide about the abuse to others. The information may be shared only if you agree in writing, if it is needed to evict the abuser from the housing, or if disclosure is required by law.

**10. Does this mean that a victim of domestic violence, dating violence, sexual assault, or stalking cannot be evicted at all?**

No. You still can be evicted for serious or repeated lease violations that aren't related to the abuse. The landlord or housing authority must hold you to the same standard as other tenants. The landlord also may be able to evict if there is a real and immediate threat to other tenants if you are not evicted. **If you receive any type of eviction notice, call a legal aid office immediately.**

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**11. Is the housing authority or landlord required to tell me about VAWA's housing protections?**

Yes. VAWA requires each housing authority or landlord to tell applicants and tenants of the VAWA housing protections. The notice, Form HUD-5380, available at <https://bit.ly/2NETW1L>, must be given along with the self-certification form mentioned in Question 7 at the time an applicant is denied housing or assistance, at the time an applicant is admitted to housing, or when a tenant is notified of eviction or termination. This notice must be in multiple languages.

**12. How does VAWA affect other state or local laws that might protect me?**

VAWA is federal law. However, VAWA is not intended to replace other federal, state, or local laws that may provide more protections for victims of abuse. Therefore, there may be state or local laws that also protect you.

**13. Who can help me?**

Contact an attorney, domestic violence agency, or fair housing agency to see if VAWA can help you.



**Conozca sus  
Derechos: Violencia  
Doméstica y Vivienda  
con Asistencia Federal**

**Ley Sobre la Violencia contra  
las Mujeres**

¿Es víctima de violencia doméstica,  
violencia  
de pareja, ataque sexual o acecho?

¿Reside en una vivienda con  
asistencia federal?

**Una ley llamada VAWA (siglas  
en inglés), la Ley sobre la  
Violencia contra  
las Mujeres, puede ayudarla.**

Septiembre 2018

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## **Los Derechos de las Víctimas de Violencia Doméstica: Residir en Vivienda con Asistencia Federal**

### **1. ¿Qué es la ley VAWA?**

La Ley de Violencia contra la Mujer (VAWA) es una ley que protege a las víctimas de violencia doméstica, violencia de pareja, agresión sexual y acoso de ser discriminadas por ciertos proveedores de vivienda debido a los abusos cometidos en contra de ellas.

### **2. ¿Estoy cubierta por las protecciones de vivienda de la ley VAWA?**

La ley VAWA protege a las víctimas de violencia doméstica, violencia de pareja, asalto sexual y acecho. No necesita estar casada o vivir con el abusador para estar protegida por VAWA. VAWA es aplicable para usted si está solicitando o ya es inquilina en alguno de estos programas:

- Vivienda pública;
- Sección 8 Vouchers de elección de vivienda;
- Sección 8 Vivienda basada en proyecto;
- Sección 202 vivienda para personas mayores;
- Sección 811 para personas con discapacidad;
- Sección 236 viviendas para alquiler multifamiliar;
- Sección 221 (d) (3) Por debajo de la tasa de interés de mercado (BMIR);
- Programa HOME;
- Oportunidades de vivienda para personas conviviendo con VIH / SIDA (HOPWA) (siglas en inglés);
- Programas de Subsidios para Atención Continua y Solución a Emergencias;
- Fondo Fiduciario de Vivienda;
- Viviendas Multifamiliares de Desarrollo Rural; y
- Crédito Tributario para Viviendas de Bajos Ingresos (LIHTC – siglas en inglés)

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### **3. ¿ Se aplica VAWA a programas de viviendas privados a precio de mercado?**

No. VAWA no cubre programas de vivienda privados que no reciben asistencia federal. Los derechos descritos en este volante se aplican solo a los programas federales de vivienda mencionados anteriormente. Sin embargo, puede haber leyes en su estado o ciudad / pueblo / condado que protejan a las víctimas en viviendas a precio de mercado. Puede contactar a su oficina local de ayuda legal o agencia de violencia doméstica y sexual para ver si existen leyes estatales y locales que la protejan.

### **4. ¿Qué derechos ofrece VAWA?**

Si usted es víctima de violencia doméstica, violencia de pareja, asalto sexual y acoso:

- No se le puede negar la admisión ni la asistencia federal para alquiler solo porque usted sea o haya sido víctima o una víctima amenazada.
- No puede ser desalojada ni perder su asistencia federal para pagar el alquiler simplemente porque se han cometido actos de violencia contra usted.
- No se le puede negar la admisión o la asistencia para alquiler, desalojarle o perder su subsidio por motivos relacionados con el abuso, como son un mal historial de crédito e historial delictivo.

### **5. ¿Qué sucede si necesito echar al agresor de la casa?**

Si alguien que vive en su hogar usa violencia contra usted, la autoridad de vivienda o el arrendador puede desalojar al abusador solamente, y permitir que usted, su familia y otros miembros del hogar permanezcan en el él. Si usted no figura como cabeza de familia, o su nombre no figura en la asistencia de alquiler, generalmente tiene 90 días o hasta el final del contrato para establecer la elegibilidad para ese subsidio u otro subsidio de vivienda, o para encontrar una vivienda nueva.

no haya finalizado su contrato de arrendamiento. Las autoridades de vivienda y arrendadores deben haber adoptado planes de traslado de emergencia para el 14 de Junio del 2017, que permita traslados a otras viviendas con asistencia federal que estén disponibles y sean seguras. Usted puede transferirse si consulta con su arrendador, y cree con suficiente razón que va a sufrir más abusos, o si ha sido víctima de una agresión sexual que ocurrió en la propiedad hasta 90 días antes de la solicitud. Si el propietario no tiene un plan de traslado de emergencia, comuníquese con la oficina local de ayuda legal o la agencia de violencia doméstica y sexual.

#### **7. ¿Cómo pruebo que puedo usar las protecciones de VAWA?**

La autoridad de vivienda o el arrendador pueden pedir la documentación que demuestre que usted es una víctima de violencia doméstica, violencia de pareja, asalto sexual o acecho. El proveedor de vivienda debe hacer esta solicitud por escrito. Hay tres formas de demostrar que usted es una víctima:

- Complete el formulario de auto certificación. El formulario le pedirá: su nombre; el nombre de su abusador (si es conocido y seguro de proporcionar); la relación del abusador con usted; la fecha, hora y lugar del acto de violencia; y una descripción de dicho acto. Para obtener el formulario, formulario HUD-5382, visite el sitio web de HUD: <https://bit.ly/2E14cNF>, llame a la autoridad de vivienda o una oficina de ayuda legal. En el futuro, puede haber cambios en el formulario.
- Proporcione una carta firmada por un proveedor de servicios para víctimas, un abogado o un profesional de salud mental o médico que le haya ayudado con el abuso (también denominada “documentación de terceros”). Usted también debe firmar esta carta.
- Proporcione un informe policial, un registro judicial (por ejemplo, una orden de restricción) o un registro administrativo.

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Usted puede elegir cualquiera de estas opciones. A menos que el abusador también presente pruebas similares, un arrendador no puede obligarlo a elegir ningún tipo particular de prueba o más de un tipo. El arrendador debe darle al menos 14 días hábiles (los fines de semana y días festivos no cuentan) para proporcionar una prueba de la violencia.

**8. ¿Qué sucede si el agresor también presenta una certificación que indica que él o ella es víctima?**

Si el arrendador recibe pruebas del abusador alegando que él o ella es la víctima, entonces el arrendador puede solicitarle a usted que presente pruebas adicionales para demostrar que quien es la víctima es usted.

**9. ¿Puede un proveedor de vivienda compartir con otras personas la información que usted ha proporcionado sobre el maltrato?**

No, excepto en algunos casos. La autoridad de vivienda o el arrendador no pueden dar a otras personas la información que usted proporcione sobre el maltrato. La información se podrá compartir sólo si usted lo acuerda por escrito, si es necesario para desalojar al agresor de la vivienda o si la ley exige su divulgación.

**10. ¿Significa que una víctima de violencia doméstica, violencia de pareja, ataque sexual o acecho no puede ser desalojada?**

No. Una víctima de violencia puede ser desalojada por infracciones graves o reiteradas del contrato de arrendamiento que no estén relacionadas con el maltrato. El arrendador o la autoridad de vivienda deben aplicar para usted la misma norma que se aplica para los demás inquilinos. El arrendador también puede proceder con el desalojo si existe una amenaza real e inmediata a otros inquilinos si usted no es desalojada.

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**Si recibe cualquier tipo de notificación de desalojo, llame de inmediato a una oficina de asistencia legal.**

**11. ¿Deben la autoridad de vivienda o el arrendador informarme sobre las protecciones para la vivienda que garantiza VAWA?**

Sí. VAWA exige a todas las autoridades de vivienda o arrendadores informar a los solicitantes e inquilinos sobre las protecciones para la vivienda que garantiza VAWA. La notificación, Formulario HUD 5380, a la cual usted puede acceder desde el sitio web <https://bit.ly/2NETW1L>, debe entregarse junto con el formulario de autocertificación mencionado en la Pregunta 7 en el momento en que se niegue vivienda o asistencia al solicitante, en el momento en que el solicitante sea admitido en la vivienda o cuando un inquilino sea notificado del desalojo o la finalización del contrato. Esta notificación debe estar en varios idiomas.

**12. ¿De qué manera afecta VAWA otras leyes estatales o locales que pueden protegerme?**

VAWA es una ley federal. No obstante, VAWA no tiene la intención de reemplazar otras leyes federales, estatales o locales que puedan proporcionar mayor protección a las víctimas de maltrato. Por lo tanto, puede haber leyes estatales o locales que también le protejan.

**13. ¿Quién puede ayudarme?**

Póngase en contacto con un abogado, una agencia de violencia doméstica o agencia de vivienda justa para ver si VAWA puede ayudarla.