



LAHSA

Housing Protections for Survivors in Permanent Supportive Housing

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Agenda

01 What is Domestic Violence?

02 California Protections for Survivors

03 Violence Against Women Act

04 Emergency Transfers

Definition of Domestic Violence

- A **pattern** of behavior over time where one partner exerts control over another
- **Power & control** are at the center of DV

Control can take the form of any type of abuse:

- Emotional
- Psychological
- Financial
- Spiritual
- Physical
- Sexual
- Stalking

Definition of Homelessness under McKinney-Vento Homelessness Assistance Act

“(b) Domestic Violence, Dating Violence, Sexual Assault, Stalking, And Other Dangerous, Traumatic, Or Life-Threatening Conditions Relating To Such Violence.— Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who—

“(1) is experiencing trauma or a lack of safety related to, or fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against the individual or a family member in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized;

“(2) has no other safe residence; and

“(3) lacks the resources to obtain other safe permanent housing.”

Housing Protections for Survivors

California

California Housing Protections Overview

California has protections that go farther than federal protections. CA protections extend to **all rental market housing** (not just subsidized housing).

Survivors' Rights under CA Laws

- Early lease termination - CA Civil Code § 1946.7
 - State law permits victims of domestic violence, sexual assault, stalking, human trafficking, or elder/dependent adult abuse to end their leases.
 - Victims must give 14 days' written notice to the landlord.

Survivors' Rights under CA Laws

- Lock changes - CA Civil Code §§ 1941.5, 1941.6
 - If victim lives with abuser, landlord must change locks within 24 hours of receiving a restraining order
 - If the landlord does not change the locks within 24 hours, tenant may change the locks without the landlord's permission.
 - If victim and perpetrator do not live in the same unit, the same rules apply, but the survivor may also use a police report to request the lock change.

Survivors' Rights under CA Laws

- Not be evicted due to the violence they experience - CA Code of Civil Procedure § 1161.3
 - A landlord cannot evict a tenant based upon acts of domestic violence, stalking, sexual assault, human trafficking or elder/dependent abuse committed against that tenant if:
 - Tenant has a restraining order, police report, and qualified third-party documentation; and
 - Person named in the restraining order or police report does NOT reside in the same dwelling unit as the tenant.

Survivors' Rights under CA Laws

- Not be evicted for calling 911 and emergency assistance – CA Gov't Code § 53165
 - Protects victims of crime and abuse, and others in emergencies, from being evicted or penalized for calling law enforcement or emergency assistance.
 - Landlords cannot be forced by law enforcement to evict tenant or face penalties if they do not evict.
 - Local laws cannot allow someone to be evicted under nuisance and crime-free ordinances.

Evictions and Fair Housing Laws

- HUD says: Evicting or denying housing to a victim of domestic violence based on violence could violate the federal Fair Housing Act
 - Policies that are based on gender stereotypes may violate the FHA.
 - Ex: “I never rent to women with a history of domestic violence because they always go back to the men who abuse them.”
 - Treating women differently because of their status as victims may violate the FHA.
 - Ex: A landlord evicts a DV victim because the abuser broke into their unit and they called the police, but does not evict another tenant after a stranger broke into his unit and he called the police.

Scenario 1 – Poll Question 1

Scenario 1 – Laurence is living in market-rate rental housing with his abusive partner. One night, Laurence calls 911 after his abuser hits him. The next day his landlord tries to evict him under the local crime-free ordinance.

Question 1 – Is the landlord allowed to evict Laurence?

- Yes
- No
- Maybe
- Not Sure

Scenario 1 – Poll Question 1 – Answer

Question 1 – Is the landlord allowed to evict Laurence?

✓ No

Why?

CA Gov't Code § 53165 protects victims of crime and abuse, and others in emergencies, from being evicted or penalized for calling law enforcement or emergency assistance. Local laws do not supersede this California law.

VAWA Reauthorization 2022

Section 603: The Right to Report Crime & Emergency Aid

- Came in response to growing concerns that local crime-free programs and nuisance property ordinances were interfering with the right to report crime or seek emergency assistance.

Violence Against Women Act

Federal Law

What is 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 regardless of sex, gender identity, sexual orientation, disability, or age.
- VAWA does not apply to market-rate rental housing (unless there is a federal subsidy).

Who is covered under VAWA?

The Violence Against Women Act (VAWA, 34 U.S.C. § 12471 et seq.) provides housing protections for survivors of domestic violence, dating violence, sexual assault, and/or stalking. Despite the name of the law, VAWA's protections apply regardless of sex, sexual orientation, or gender identity.

Survivors' Rights Under VAWA

- Cannot be denied admission, be evicted, or have their assistance terminated because of the violence committed against them;
- (All tenants/program participants) must get a notice of housing rights under VAWA;
- Can request that an abuser be removed from the lease and housing unit;
- Survivors with Housing Choice Voucher (“Section 8”) assistance can move with continued assistance;

Survivors' Rights Under VAWA

- Seek an emergency transfer to another unit in the same program and/or to a unit 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;
- Has a right to strict confidentiality of information;
- Can self-certify using HUD Form 5382.

Notification of Occupancy Rights

Individuals must be provided with a copy of their rights with each denial of assistance/admission, provision of assistance/admission, and any notification of eviction or termination of assistance.

Documenting Abuse

- Housing Provider can accept a survivor's oral representation that they are or have been the victim of domestic violence, dating violence, sexual assault, or stalking, OR
- Housing Provider can request that the survivor provide documentation that they are or have been the victim of domestic violence, dating violence, sexual assault, or stalking
- Acceptable Forms of Documentation:
 - (1) The HUD VAWA self-certification form.
 - (2) Law enforcement, court, or administrative agency record (includes police report).
 - (3) Documentation provided by a professional.
 - (4) Statement or other evidence

Confidentiality

- Any information submitted to a Housing Provider, including the fact that an individual is a survivor, shall be maintained in strict confidence
- Emergency Transfer Plans need to include confidentiality requirements

Scenario 1 – Poll Question 2

Scenario 1 – Laurence applies for a project-based voucher development and informs the project owner that he is a survivor of domestic violence. Laurence wants to move into this housing development with his two children to leave their current housing situation. The next day he hears from the owner that he cannot move into the unit because the owner is worried that his former partner will cause disturbances at the property.

Question 2 – Is the property manager allowed to deny Laurence housing?

- Yes
- No
- Maybe
- Not Sure

Scenario 1 – Poll Question 2 – Answer

Question 1 – Is the property manager allowed to deny Laurence housing?

✓ No

Why?

Under the Violence Against Women Act, a landlord cannot discriminate against a potential tenant for being a survivor of domestic violence.

Emergency Transfers

Under VAWA

Emergency Transfers

- Under VAWA 2013, Covered Programs are required to have an emergency transfer plan that allows victims to transfer to another available and safe dwelling unit to protect their safety

Emergency Transfer: Eligibility

Qualifies for an emergency transfer if:

- (1) They expressly request the transfer, AND, EITHER
- (2) Reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit,
- OR (additionally, if survivor of sexual assault)
- (3) In the case of a survivor of sexual assault, the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer

Lease Bifurcation

The Housing Program may bifurcate a lease in order to remove or terminate assistance to an abuser who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking while allowing the victim to stay.

Types of Transfers

- **Internal Transfer:** An internal emergency transfer is a move to another unit assisted under the same program where the tenant would not be categorized as a new applicant. For example, a move from one public housing unit to another public housing unit owned by the same PHA.
- **External Transfer:** An external emergency transfer refers to an emergency transfer to another unit or form of assistance where the tenant would be categorized as a new applicant. For example, a move from a public housing unit owned by one PHA to a public housing unit owned by another PHA

Scenario 1 – Poll Question 3

Scenario 1 – Laurence and his two children move into a project-based PSH unit. Unfortunately, Laurence’s ex-partner finds out where Laurence moved, and Laurence no longer feels safe in his unit.

Question 1 – Is Laurence eligible for an emergency transfer?

- Yes
- No
- Maybe
- Not Sure

Scenario 1 – Poll Question 3 – Answer

Question 3 – Is Laurence eligible for an emergency transfer?

✓ Yes

Why?

Laurence is a survivor of domestic violence and feels there is a threat of imminent harm from further violence if he remains within the same dwelling unit.

Scenario 2 – Poll Question 1

Scenario 2 – Jordan is living in PSH with their partner. Jordan’s partner is the qualifying household member for the PSH but has grown increasingly violent. A few days ago, Jordan’s partner threw a pot with boiling water at Jordan because they were late to dinner. The pot missed Jordan’s face by a few inches, splattering scalding water on their arm.

Question 1 – Is Jordan eligible for an emergency transfer?

- Yes
- No
- Maybe
- Not Sure

Scenario 2 – Poll Question 1 – Answer

Question 1 – Is Jordan eligible for an emergency transfer?

✓ Yes

Why?

- Under VAWA, Jordan is a victim of domestic violence, dating violence, sexual assault, or stalking and
- a program participant/tenant because they receive assistance or a subsidy from a Covered Program – a PSH provider (regardless of whether their name is listed as head of household in the lease, housing assistance contract, or other housing agreement.)
- Jordan could also qualify for a lease bifurcation

Resources

A list of resources available to survivors, or those hoping to support or assistance a survivor of violence.

National Resources:

- **National Domestic Violence Hotline:**
800-799-SAFE (7233)
- **National Human/Sex Trafficking Hotline:**
1-888-373-7888
- **Rape, Abuse, Incest National Network Hotline:** 800-656-HOPE (4673)
- **National Network to End Domestic Violence**
- **Futures Without Violence**

Los Angeles Resources

- Los Angeles DV Hotline: (800) 978-3600
- LAHSA DV Unit: dvinfo@lahsa.org
- **DV Regional Coordinators**
- **DV Council**
- **Domestic Violence Homeless Services Coalition**

References

HUD's Violence Against Women Act, Part 2: Legal Protections for Survivors NFHTA
National Fair Housing Forum - January 2023 - Slides (hudexchange.info)

"Your Rights Under The Violence Against Women Act (VAWA)", Violence Against Women Act (VAWA) | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

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Thank you!

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