



*State Law Guide*

## HOUSING PROTECTIONS FOR VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE

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Many domestic violence victims report losing their housing due, at least in part, to the violence in their lives. Five jurisdictions -- North Carolina, Rhode Island, Washington, Westchester County, New York and the District of Columbia -- have enacted laws specifically indicating that domestic violence victims are protected from housing discrimination. An increasing number of other states and localities have passed laws that prohibit housing discrimination against, or provide some protections for, domestic violence victims in certain circumstances; that permit victims to terminate leases; and/or that permit victims to have their locks changed. Some of these laws specifically refer to victims of sexual assault and stalking as well. The 2005 reauthorization of the Violence Against Women Act includes important protections for victims living in federally-funded public housing, using federally-funded housing vouchers ("Section 8" vouchers), or living in project-based Section 8 housing. Additionally, a victim of domestic violence, sexual assault or stalking who is evicted or otherwise discriminated against in housing may have rights under federal, state, or local fair housing laws.

### FEDERAL LAW

**VIOLENCE AGAINST WOMEN ACT 2005:** [Pub. L. 109-162, §§ 606, 607](#), codified at 42 U.S.C. §§ 1437d, 1437f.

This law protects victims of domestic violence, dating violence, and stalking living in federally-funded public housing, living in project-based Section 8 housing, or receiving federal housing assistance in the form of Section 8 vouchers. It states that public housing authorities ("PHAs") and private landlords accepting Section 8 vouchers or providing project-based Section 8 housing may not deny admission to housing or voucher assistance to an individual based on his or her status as a victim of domestic violence, dating violence, or stalking. Additionally, it makes clear that individuals cannot be evicted or terminated from voucher assistance based on incidents of actual or threatened domestic violence, dating violence, or stalking, or based on criminal activity directly relating to such violence, unless the PHA or landlord demonstrates that the individual's continued tenancy would pose an "actual and imminent threat" to other persons on the property. The law explicitly permits PHAs or subsidized landlords to "bifurcate a lease" to evict, or end assistance to, the perpetrator of such violence. The law permits -- but does not require -- a PHA or subsidized landlord to request that an individual seeking protection under this law provide documentation of the violence. If requested, the victim must provide certification within fourteen business days; the certification requirement can be satisfied by a police or court record or a statement (that meets certain requirements) by a victim service provider, attorney, or medical professional from whom the individual has sought assistance in addressing the violence. The certification must also name the offender. The PHA or landlord must keep information relating to the certification confidential. The law also clarifies that a family with a Section 8 voucher may move to another jurisdiction if the family is moving to protect the health or safety of a victim of domestic violence, dating violence, or stalking. The law requires PHAs to inform individuals of their rights under VAWA and requires that leases must include this information. The law also explicitly provides that state or local laws that provide greater protections to victims supersede these provisions.

## STATE AND LOCAL LAWS

**ARIZONA:** Ariz. Rev. Stat. Ann. §§ [33-1315](#) & [33-1414](#).

This law states that a rental lease may not contain a clause whereby a tenant agrees to waive or limit his or her right to summon a peace officer or other emergency assistance in an emergency, and prohibits penalizing a tenant if the tenant or other person summons a peace officer or other emergency assistance.

**ARIZONA:** [S.B. 1227](#), 48<sup>th</sup> Leg., 1<sup>st</sup> Reg. Sess. (Ariz. 2007), **to be codified at Ariz. Rev. Stat. Ann. § 33-1318 (2007).**

This law creates a new section, 33-1318, and permits a tenant who is a victim of domestic violence to terminate a lease if the tenant provides a written request for a lease release to the landlord, with a mutually-agreed upon release date in the next thirty days, accompanied by an order of protection or a copy of a written departmental report from a law enforcement agency. The landlord may request the name and address of the perpetrator. The tenant must provide written notice of termination within thirty days of the domestic violence, unless waived by the landlord. The tenant may require the landlord to install a new lock if the tenant pays for the cost. A landlord can refuse the perpetrator of the domestic violence access to the dwelling or a key to the new lock. The lease for co-tenants is also terminated. A tenant who terminates a lease and is charged or convicted of falsely reporting domestic violence is liable to the landlord for treble damages. An emergency order of protection applies to the entire unit in which the tenant-victim has a lease. The perpetrator who provokes the early lease termination, if named in an order of protection or police report, can be civilly liable for all economic losses incurred by the landlord for the lease term. **The law was signed by the Governor on April 18, 2007.**

**ARKANSAS:** [Act 682](#) (formerly H.B. 2534), 86<sup>th</sup> Gen. Assemb. (Ark. 2007), **to be codified at Ark. Code § 18-16-112 (2007).**

This law prohibits a landlord from terminating, failing to renew, or failing to enter into a tenancy or otherwise retaliate because a tenant or a member of the tenant's household is a victim of domestic abuse, sex crimes, or stalking. The tenant must be identified in a documented incident of domestic violence within the immediately preceding sixty days or sixty days of the lease termination. A landlord or a tenant other than a domestic abuse offender may change the locks on a victim-tenant's residence at their expense and with the landlord's prior consent. If a domestic abuse offender is subject to a court order to stay away from a co-tenant, the offender is permitted to access the residence only to the extent permitted by the order and a landlord may refuse access to an offender unless the offender is permitted access by a court. A landlord may also take legal action against domestic violence offenders, including: terminating the residential tenancy agreement of the offender; evicting the offender whether or not a residential tenancy agreement exists between the offender and the landlord; or obtaining damages against the offender for any unpaid rent or damages caused by a documented act of domestic violence. A tenant may not waive the right to request law enforcement or other emergency assistance in a lease. This bill **was signed by the Governor on March 29, 2007.**

**CALIFORNIA:** [Cal. Health and Safety Code § 34328.1](#).

This law requires public housing agencies to submit a report each year on the first of October that includes data on termination of tenancies of victims of domestic violence in housing authority units and termination of Section 8 vouchers of domestic violence victims. Terminations must be included regardless of whether the termination was based in whole or in part of activity related to the domestic violence, and regardless of whether termination ultimately occurred. The report must also state what steps, if any, were taken by the housing authority prior to the termination to assist the victim.

**COLORADO:** [Col. Rev. Stat. Ann. §§ 13-40-104\(4\)](#) [enter “13-40-104” in the search box and click go; click on 13-40-104] & [13-40-107.5\(5\)](#) [enter “13-40-107.5” in the search box and click go; click on 13-40-107.5].

This law prohibits a landlord from evicting a tenant for a “substantial violation” and provides that a tenant shall not be guilty of an unlawful detention of real property if the tenant is a victim of domestic violence and if the domestic violence was the cause of or resulted in the alleged substantial violation or unlawful detention. The domestic violence must have been documented by a police report or a valid civil or emergency protection order. These protections may not be waived by the tenant in a rental lease or other such agreement. They explicitly do not prevent the landlord from taking actions against a tenant or lessee that perpetuated the violence or abuse.

**COLORADO:** Col. Rev. Stat. Ann. [§§ 38-12-401](#) [enter “38-12-401” in the search box and click go; click on 38-12-401] & [38-12-402](#) [enter “38-12-402” in the search box and click go; click on 38-12-402].

This law provides that landlords may not include in rental agreements “a provision authorizing the landlord to terminate the agreement or to impose a penalty on a residential tenant for calls made by the residential tenant for peace officer assistance or other emergency assistance in response to” domestic violence. The right to call for police or emergency assistance is non-waivable. A victim of domestic violence may terminate a residential rental or lease agreement and to vacate the premises without further obligation due to fear of imminent danger to the victim’s self or to the victim’s children because of the domestic violence. The tenant must notify the landlord in writing that he or she is a victim of domestic violence and provide the landlord with a police report written within the prior sixty days or a valid protection order. A vacating tenant will be responsible for one month’s rent if the landlord experiences and documents damages equal to at least one month’s rent as a result of the tenant’s early termination of the agreement. The law prohibits the termination of a lease or eviction solely because the tenant is a victim of domestic violence or domestic abuse.

**CONNECTICUT:** [Conn. Gen. Stat. § 17b-808\(a\)\(2\)](#).

This law provides that a special needs benefit for emergency housing shall be provided to any recipient of temporary family assistance program benefits and the optional state supplementation program who cannot remain in permanent housing because the recipient has left to escape domestic violence.

**DELAWARE:** 25 Del. Code. [§§ 5141\(6\)](#) [click on subchapter II] & [5314\(b\)](#).

This law adds victims of domestic abuse, sexual offenses, and stalking, as well as tenants who have sought relief from domestic violence from any officer, court, service, or agency, to the list of persons permitted to terminate leases early. The victim must provide verification of the violence in the form of an official document, such as a court order, or a statement from a reliable third party professional, including a law enforcement agency or officer; a domestic violence, domestic abuse or sexual assault service provider; or health care provider.

**DISTRICT OF COLUMBIA:** [Protection from Discriminatory Eviction for Victims of Domestic Violence Amendment Act of 2006](#), codified at D.C. Official Code § 42-3501 *et seq.* & § 2-1401 *et seq.* (2007).

This law amends the D.C. Rental Housing Act to allow a tenant to defend her eviction in landlord-tenant court if the tenant, or the tenant’s child, is a victim of an “intrafamily offense,” and the violence is the basis for the eviction. A civil protection order ordering the abuser to vacate the home is a defense to a landlord’s action for possession. A court has the discretion not to evict a tenant if the tenant has a copy of a police report written within the preceding sixty days, or has filed for but has not received a temporary or civil protection order ordering the abuser to vacate the home. The law also requires a landlord to release a victim-tenant from a lease upon receiving a written record of the domestic violence from a qualified third party such as a law enforcement officer, health professional, or domestic violence counselor, received within ninety days of the event. The release is effective upon the earlier of fourteen days after the landlord receives the documentation, or until the unit is rented. In addition, upon written request of the tenant who is a victim of an intrafamily offense, the landlord shall change the locks to the tenant’s doors within five business days, and pay the cost, which can be reimbursed by the tenant if the landlord provides documentation of the cost

within forty-five days. D.C.'s Human Rights Act is also amended to prohibit discrimination against victims of intrafamily offenses, and requires landlords to make reasonable accommodations in restoring or improving security and safety measures. Landlords must permit early termination of the lease, and may not infringe or allow to be waived a tenant's right to call for police or emergency assistance. **The law went into effect March 14, 2007.**

**ILLINOIS:** [765 ILCS 750/1.](#)

This law, the "Safe Homes Act," provides an affirmative defense for a tenant who is a victim of domestic violence, sexual assault, or stalking who terminates a lease early against a landlord's action to recover rent for a breach of lease. The act permits a domestic violence victim to terminate a lease early, upon three days' written notice to the landlord. The act permits a victim of sexual violence to terminate a lease early upon three days' written notice to the landlord and evidence (such as medical, court or police evidence of sexual violence; or a statement from an employee of a victim services or rape crisis organization from which the tenant or a member of the tenant's household sought services) of the violence, if the sexual violence occurred not more than sixty days prior to the written notice. The act also requires landlords to change the locks of an apartment at a victim's request, within forty-eight hours of the landlord's receipt of the request. Notice to the landlord requesting a change of locks shall be accompanied by at least one form of the following types of evidence to support a claim of domestic or sexual violence: medical, court or police evidence of domestic or sexual violence; or a statement from an employee of a victim services, domestic violence, or rape crisis organization from which the tenant or a member of the tenant's household sought services. This law does not apply to public housing, except the tenant-based Housing Choice Voucher program.

**INDIANA:** [H.B. 1509/S.B. 252](#), 115<sup>th</sup> Gen. Ass., 1<sup>st</sup> Sess. (Ind. 2007), **to be codified at Ind. Code § IC 32-31-9 (2007).**

This law, which creates a new section, prevents landlords from terminating a lease, refusing to renew or enter into a lease, or retaliating against an applicant, tenant, or member of that individual's household solely because the applicant, tenant, or member of that individual's household is a victim or alleged victim of domestic or family violence, sexual violence, or stalking who has a civil order of protection or a criminal no-contact order. A landlord may not refuse to enter into a lease with an applicant or retaliate against a tenant because the individual has terminated a rental agreement because they are a victim of domestic violence. A tenant may have the locks changed at the tenant's cost within forty-eight hours of notifying the landlord of the tenant's status as a protected individual (and upon receipt of a court order if the perpetrator is not a tenant of the same dwelling). If the perpetrator is a tenant of the same dwelling, the tenant may have the locks changed at the tenant's cost within twenty-four hours of notifying the landlord of the tenant's status as a protected individual (and upon receipt of a court order). A tenant who is a protected individual can also request early termination of a lease, upon providing the landlord with (1) thirty days' written notice; (2) a copy of an order of protection or a criminal no-contact order; and (3) if the tenant is a victim of domestic violence or sexual assault, a copy of a safety plan that is dated within thirty days of the written notice, is provided by an accredited domestic violence or sexual assault program, and recommends relocation of the individual. The law only applies to rental leases entered into or renewed after June 30, 2007. **The law went into effect July 1, 2007.**

**IOWA:** Iowa Code §§ [562A.27A](#) [*enter "562A.27A" in the search box and click submit*] & [562B.25A\(3\)](#) [*enter "562B.25A" in the search box and click submit*].

This law creates an exemption from the statutory provision permitting landlords to terminate the tenancy of tenants who create a "clear and present danger" to others for any tenant who provides written proof that the activities creating the danger were conducted by a person other than the tenant, and the tenant (a) sought a protective order or similar order against the person creating the danger; (b) reported the person creating the danger to a law enforcement agency in an effort to initiate criminal action; or (c) wrote a letter to the person creating the danger telling the person not to return to the premises and warning the person that return to the premises may result in a trespass or other action. If the tenant wrote a letter to the person creating the danger

and that person nonetheless returned to the premises, the tenant must undertake (a) or (b) to be covered by this exemption. A landlord seeking to terminate a tenancy on grounds of “clear and present danger” must notify the tenant in writing as to “the specific activity causing the clear and present danger” and inform the tenant in writing of the specific protections described above.

**LOUISIANA:** [La. Rev. Stat. Ann. § 40:506\(D\)](#).

This law provides that local public housing authorities may not terminate the tenancy of a resident based on “domestic abuse, dating violence or family violence” committed against the head of a household, member of household, or a resident. Local public housing authorities may terminate the tenancy of the perpetrator of such violence.

**MINNESOTA:** [Minn. Stat. § 504B.205](#).

This law prohibits a landlord from limiting a tenant’s “right to call for police or emergency assistance in response to domestic abuse” or from imposing a penalty on the tenant for exercising that right. The law may be enforced by a tenant in a civil action against a landlord for the greater of actual damages or \$250, or by the attorney general. A tenant may also raise her or his statutory right to request police or emergency assistance as a defense to an eviction, pursuant to [Minn. Stat. § 504B.285](#), provided that the tenant can show by a “fair preponderance of the evidence” that the eviction or rent increase was in whole or in part “a penalty for the defendant's good faith attempt to secure or enforce” that right.

**MINNESOTA:** [Minnesota Session Laws 2007, Chapter 54, Art. 4, § 3](#) (previously [S.F. 1822](#) & [H.F. 1841](#)), 85<sup>th</sup> Reg. Sess. (Minn. 2007), **to be codified at Minn. Stat. § 504B.206 (2007)**.

This law allows a tenant who fears imminent domestic abuse against the tenant or the tenant's minor children if the tenant or the tenant's minor children remain in the leased premises to terminate a lease agreement. The tenant must provide to the landlord an order of protection or no-contact order, and advance written notice (via mail, fax, or in person) to the landlord stating that: the tenant fears imminent domestic abuse from a person named in an order of protection or no contact order; the tenant needs to terminate the tenancy; and the specific date the tenancy will terminate. The landlord must keep any information about the domestic violence confidential. The tenant is responsible for the rent payment for the full month in which the tenancy terminates and an additional amount equal to one month's rent. The amount equal to one month's rent must be paid on or before the termination of the tenancy for the tenant to be relieved of the contractual obligations for the remaining term of the lease. A tenant may not waive or be required to waive the rights under this law. **The law went into effect July 1, 2007.**

**NEW MEXICO:** [N.M. Stat. Ann. § 47-8-33\(I\)](#) [*click on New Mexico Statutes and Court Rules; click on Statutory Chapters; click on Chapter 47; click on Chapter 8; click on 47-8-33*].

This law provides a defense against eviction for a victim of domestic violence if the landlord tries to evict the tenant because the tenant committed or allowed another person to commit a substantial violation of the lease. The law provides that a tenant will not be evicted if she filed for or received a restraining order before or as a result of the incident leading to the eviction notice. It also grants the court discretion in other cases to evict the resident accused of violating the lease while allowing the other tenants to remain.

**NEW YORK STATE:** [A.B. 3386/S.B. 1922](#) & [A.B. 9244/S.B. 6351](#), 229<sup>th</sup> Reg. Sess. (N.Y. 2007), **to be codified at N.Y. Real Prop. Law §§ 227-c(2) & (3), N.Y. Crim. Proc. Law § 530.13(1) & N.Y. Dom. Rel. Law § 240(3) (2007)**.

A.B. 3386/S.B. 1922 allows a victim of domestic violence with an order of protection to terminate a lease without penalty. On ten days’ notice, the victim who has an order of protection may ask the criminal or family court that issued the order of protection for an order terminating the lease. The court shall issue such an order only if: (1) there continues to exist a substantial risk of physical or emotional harm to the tenant or the tenant’s child if they were to remain in the dwelling; (2) the tenant attempted to obtain the landlord’s voluntary consent to the lease termination; and (3) the tenant is acting in good faith. The order shall specify

the termination date, which shall be no earlier than thirty days and no later than 150 days after the due date of the next rental payment subsequent to the date such order is served on the landlord. The bill was passed by both houses and signed by the Governor on June 5, 2007, but with an approval memorandum indicating changes to be made. Accordingly, A.B. 9244/S.B. 6351 was subsequently introduced to address those changes, and requires the provision of notice to any co-tenants of the intent to terminate the lease; gives a co-tenant the opportunity to be heard and express opposition to a lease termination order; allows the court that issued the order of protection to hear the application for a lease termination even if the original proceeding has been closed; and allows the court to sever a co-tenancy on behalf of the holder of the order of protection. The bill was passed by both houses and was **signed by the Governor on August 15, 2007. The law takes effect on October 1, 2007.**

**NEW YORK, WESTCHESTER COUNTY:** [Westchester County Code §§ 700.02, 700.05, 700.11\(h\)\(2\).](#)

This county law prohibits housing discrimination (as well as employment discrimination and public accommodation discrimination) against victims of domestic violence, sexual assault, or stalking in Westchester County. It protects victims from being denied housing, refused a lease, or refused a lease renewal, among other things. To claim protections under the law, an individual must provide the owner, landlord, or other person offering the property with documentation certifying that he or she is a victim of such violence; this requirement can be met by providing a police report; court order; or documentation from a medical professional, domestic violence advocate, clergy member, or counselor from whom the individual has sought assistance from in addressing the violence. Documentation must be kept in the “strictest confidence.” Documentation is not required if the owner, landlord, or other relevant person perceives the individual to be a victim of domestic violence, sexual assault, or stalking.

**NORTH CAROLINA:** N.C. Gen. Stat. §§[42-40](#), [42-42.2](#) [42-42.3](#) & [42-45.1](#).

This law prohibits discrimination against tenants based on the tenant’s (or a household of the tenant’s) status as a victim of domestic violence, sexual assault, or stalking, provided that the domestic or sexual violence has been documented by law enforcement, a court, a federal agency, a domestic violence or sexual assault program, or a religious, medical, or other professional. This law also entitles a tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, or stalking to terminate a rental agreement upon thirty days’ written notice to the landlord. The tenant must also provide a safety plan from a domestic violence or sexual assault agency that recommends relocation and a copy of a valid permanent protection order, a criminal order restraining a person from contact with a tenant, or an address confidentiality program card. Upon termination, the tenant is liable for rent due prorated to the effective date of the termination. The law also entitles tenants who are victims of domestic violence, sexual assault, or stalking to request that the locks to their dwelling units be changed at the tenant’s expense; there are documentation requirements that apply only if the perpetrator of the violence is a tenant in the same dwelling unit.

**OREGON:** [Ore. Rev. Stat. §§ 90.453, 90.459](#), amended by [S.B. 561](#), 74<sup>th</sup> Leg. Ass. (Or. 2007), **to be codified at Ore. Rev. Stat. §§ 90.100 – 90.459, and Ore. Rev. Stat. §§ 105.105 – 105.168 (2007).**

Section 90.453 requires a landlord to release a tenant from a rental agreement upon fourteen days’ written notice and verification that the tenant has been the victim of domestic violence, sexual assault, or stalking within ninety days preceding the date of the notice. The notice must specify the release date, and as amended by S.B. 561, the notice must be accompanied by verification that the tenant has an order of protection or has been the victim of such violence within the ninety days preceding the date of the notice. Verification can take the form of an order of protection or a no-contact order; a police report; or a statement by a law enforcement officer, in the form provided in the statute, that the tenant or a minor member of the tenant’s household is a victim of such violence. As amended by S.B. 561, the verification can also include a copy of a conviction of any person for an act of domestic violence, sexual assault or stalking against the tenant; or a statement by a qualified third party such as a victim services provider, law enforcement officer, attorney or licensed health professional, in the form provided in the statute. A verification statement must be signed by the tenant and

the qualified third party, in the form provided in the statute. As amended by S.B. 561, the landlord may not disclose any information provided by a tenant to a third party unless the tenant consents, it is required for use in an eviction proceeding, the disclosure is made to a qualified third party, or disclosure is required by law. Section 90.459 requires that a landlord promptly change locks on a tenant's unit at the tenant's expense upon the tenant's request. A tenant is not required to provide verification of domestic violence, sexual assault, or stalking to initiate changing of the locks. However, if the perpetrator is a tenant in the same unit, the tenant must provide the landlord with a copy of a court order requiring the perpetrator to move out of the unit. The law exempts the landlord from liability to a perpetrator of violence whom the landlord excludes from the rental unit in response to a court order of protection, and the landlord is not required to provide the perpetrator access to property within the dwelling unit during the term of the court order. The landlord may not require the tenant to pay additional rent, deposits, or fees because of the exclusion of the perpetrator.

S.B. 561 allows a landlord, upon 24 hours' written notice, to terminate a rental agreement of a perpetrator of an act of domestic violence, sexual assault, or stalking against a household member, but not terminate the rental agreement of the other tenants. If the perpetrator continues to occupy the premises after the termination date, the landlord may seek a court order to evict the perpetrator from the premises and terminate the tenancy. The perpetrator is jointly liable with any other tenants for rent or damages to the unit incurred after the later of the termination date in the notice, or the date the perpetrator vacates the premises. The law also prohibits a landlord from terminating or failing to renew a rental agreement of a tenant because the tenant is or has been a victim of domestic violence, sexual assault, or stalking; because of a violation of the lease due to an incident of such violence; because of criminal activity relating to such violence; or because of any police or emergency response related to such violence. The landlord is also prohibited from treating such a tenant differently than other tenants. However, a landlord may terminate the lease of a victim if the landlord has previously given the tenant a written warning regarding the conduct of the perpetrator relating to domestic violence, and the tenant permits or consents to the perpetrator's presence on the premise and the perpetrator is an actual and imminent threat to the safety of other persons; or the perpetrator is an unauthorized occupant and the tenant permits or consents to the perpetrator living in the unit without the landlord's permission. The law prescribes a form for third-party verification of a tenant's claim of being a victim requesting release from a rental agreement. A tenant may bring an action and seek damages specified in the statute for a landlord's violation of the law. **The law was signed by the Governor on June 20, 2007, effective January 1, 2008.**

**RHODE ISLAND:** R.I. Gen. Laws §§ [34-37-1](#), [-2](#), [-2.4](#), [-3](#), [-4](#).

This law declares that is illegal, and against public policy, for landlords or mortgage lenders to terminate a lease or otherwise discriminate against a tenant or tenant applicant because that tenant or tenant applicant, or a member of her or his household, "is or has been, or is threatened with being, the victim of domestic abuse" or "has obtained, or sought, or is seeking" a restraining order. The law allows a landlord to evict any household member who is committing domestic abuse.

**TEXAS:** [Tex. Prop. Code § 92.015](#).

This law prohibits landlords from (1) interfering with tenants' rights to summon police or other emergency assistance in response to domestic violence, and (2) imposing "monetary or other penalties" on tenants who "summon[] police or emergency assistance." In addition to other remedies provided by law, this law allows a tenant to recover from or against a landlord who violates this law a civil penalty equal to one month's rent, actual damages suffered by the tenant as a result of the landlord's violation of this section, injunctive relief, and reasonable attorney's fees incurred by the tenant in seeking enforcement of this section.

**TEXAS:** [Tex Prop. Code § 92.016](#). **NB: There are now two § 92.016.**

This law grants a victim of domestic violence the right to terminate a lease before the end of the lease term and avoid liability for future rent or other sums due under the lease if the victim obtains and provides the landlord with a temporary or permanent protective orders. A person other than the victim could still be liable

for rent. The law also provides explicitly that neither landlord nor tenant can waive this right. It also provides that a tenant will be released from all delinquent rent if the lease does not include language specifically setting forth these rights.

**UTAH:** [Utah Code Ann. § 57-22-5.1.](#)

This law provides that victims of domestic violence, stalking, sexual offenses, dating violence, and burglary who live in residential rental units have a right to have their locks changed at their own expense if they provide their landlord with a protective order or police report. The law includes provisions relating to landlord's responsibilities to provide perpetrators of such violence with access to the property.

**VIRGINIA:** Va. Code Ann. [§§ 55-225.5, 55-248.18:1 & 55-248.31\(D\).](#)

This law provides that a tenant who has obtained a judicial order granting the tenant possession of the premises to the exclusion of one or more co-tenants has a right to have their landlord change their locks or install other security devices or to do so themselves; the tenant must compensate the landlord for actual reasonable expenses of removing security devices at the termination of the tenancy. However, this provision does not apply to orders issued ex parte. A lease may not be terminated solely because of an act of domestic violence against the tenant, if the tenant provides written documentation of the abuse and promptly notifies the landlord of the abusers' return to the premises.

**WASHINGTON:** Wash. Rev. Code Ann. [§§ 59.18.570, 575, 580, 585.](#)

Under § 575, "[i]f a tenant notifies the landlord in writing that he or she or a household member is a victim of domestic violence, sexual assault, or stalking," and either (1) has a valid order of protection or (2) has a written record of the incident signed by a law enforcement officer, court employee, clergy member, attorney, social worker, mental health professional, licensed counselor, or advocate at an agency that assists victims of domestic violence, sexual assault, or stalking, then the tenant "may terminate the rental agreement and quit the premises without further obligation under the rental agreement" as of the last day of the month in which the agreement is terminated, provided that the tenant requests to terminate the rental agreement within ninety days of the act giving rise to the protective order or the report. The law indicates the required information that the report to the third party must contain, and also provides a form that the victim can complete in making the report to the third party. Section 580 provides that a "landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's or applicant's or a household member's status as a victim of domestic violence, sexual assault or stalking, or based on the tenant or applicant having terminated a rental agreement under . . . this act." Section 585 requires landlords to comply with a tenant's request to change the locks at the tenant's expense if the tenant has a court order excluding another tenant from the premises.

**WASHINGTON:** [Wash. Rev. Code Ann. § 59.18.352.](#)

This law allows a tenant to terminate a rental agreement without further obligation if the tenant notifies the landlord that the tenant or a co-tenant was threatened by another tenant with a deadly weapon, the threatening tenant was arrested, and the landlord failed to file an unlawful detainer action against the threatening tenant within seven days of receiving notice of the arrest. The terminating tenant is entitled to a pro rata refund of any unpaid rent.

**WASHINGTON:** [Wash. Rev. Code Ann. § 59.18.130\(8\)\(b\)\(ii\).](#)

This section of the law, which prohibits all tenants from engaging in activities "imminently hazardous" to the safety of others that entail physical assaults or use of a deadly weapon and that result in arrest, states: "Nothing in this subsection (8) shall authorize the termination of tenancy and eviction of the victim of a physical assault or the victim of the use or threatened use of a firearm or other deadly weapon."

**WISCONSIN:** [Wis. Stat. Ann. § 106.50\(5m\)\(d\)](#).

This law provides that “[n]o claim that an individual’s tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property may be based on the fact that a tenant has or may be the victim of domestic abuse.”

## **RECENT LEGISLATIVE PROPOSALS ADDRESSING HOUSING RIGHTS OF DOMESTIC AND SEXUAL VIOLENCE VICTIMS**

The following legislation has been introduced in the current or prior legislative sessions regarding housing discrimination against, or other protections for, victims of domestic violence. The contents of the bills vary and the status of a particular bill may change very quickly. For more information about each bill, you may contact Legal Momentum or the legislative information service at your state legislature, or consult your legislature’s web page.

**CALIFORNIA:** [S.B. 1745](#) (Cal. 2005-06).

As introduced, this bill would grant victims of domestic violence, sexual assault and stalking protection under the California Fair Employment and Housing Act, Cal. Gov. Code § 12926. It would grant victims of domestic violence the right to terminate a rental agreement and be discharged from payment of rent after the last day of the month of the quitting date, if the tenant provides written proof of a protective order or has reported domestic violence, sexual assault, or stalking to a qualified third party who provides written documentation of victimhood. The tenant would be entitled to return of rental deposits notwithstanding lease provisions regarding early termination. The right to terminate must be exercised within ninety days of the event(s) giving rise to the protective order. The bill would also require landlords to replace or reconfigure locks upon request of a tenant or household member who has obtained and provides to the landlord a valid protective order against another tenant, and prohibit the landlord from providing new keys to the tenant against whom the order was issued. By the time the bill was passed by the Senate and Assembly in August 2006, it had been [amended](#) to eliminate any reference to housing and became a bill that would make it against the public policy of California for an employer to discriminate against a victim of domestic violence, sexual assault, and stalking. The bill was [vetoed](#) by the Governor on September 30, 2006.

**DELAWARE:** [S.B. 110](#), 144<sup>th</sup> Gen. Assemb. (Del. 2007).

This bill would amend the Landlord-Tenant Code to ensure that tenants who are victims of domestic violence, sexual offenses, or stalking are protected from eviction when they seek services relating to their status as a victim (e.g. court, police, domestic violence or sexual assault programs). The bill was passed by the Senate in an [amended form](#) (to provide that a tenant who is otherwise delinquent in the payment of rent may not take advantage of the remedies provided by the bill), but died in the House.

**FLORIDA:** [H.B. 373](#) & [S.B. 880](#), 109<sup>th</sup> Reg. Sess. (Fla. 2007).

These bills would allow a victim of domestic violence, sexual violence, or dating violence (defined as a person who has a final injunction for protection against such violence), to elect to terminate a rental agreement and vacate the dwelling. The victim must give the landlord written notice of the intent to terminate the lease and a copy of a permanent order of protection no later than fifteen days after the order is entered. The victim must vacate the unit on the date the lease expires or within thirty days after the landlord first receives notice of the termination. At the conclusion of thirty days, the lease may continue except that the victim shall be released from all future obligations and early termination fees. The bills died in committee in the House and Senate. Similar bills, [H.B. 5](#) and [S.B. 666](#), were introduced in the previous session and died in 2006.

**HAWAII:** [H.B. 469](#), 24<sup>th</sup> Leg. (Haw. 2007).

This bill would amend Hawaii’s fair housing law to prohibit discrimination against victims of domestic violence, stalking or persons who have obtained a temporary restraining order or protective order, in any real estate transaction. Landlords would be prohibited from evicting tenants solely because they are victims of

domestic violence. The bill passed the House, and then passed the Senate in an amended form, but the bill died because the houses could not reconcile the differences. Similar bills introduced in previous sessions died: [H.B. 2021](#) (2004); [S.B.2464](#) & [H.B.2121](#) (2002).

**ILLINOIS:** [S.B. 534](#), 95<sup>th</sup> Gen. Assemb. (Ill. 2007).

This bill would amend sections 20 and 25 of the Safe Homes Act, described above. When a tenant with a written lease requests that a landlord change the locks, if the threat is from a person who is not a lessee under the lease, the bill requires that notice of the lock change be accompanied by at least one form of proof, including: medical, court or police evidence of domestic or sexual violence; or a statement from an employee of a victim services, domestic violence, or rape crisis organization from which the tenant or a member of the tenant's household sought services. The bill requires a tenant with a written lease requesting a change of locks because of a threat of violence from another lessee to include with the request an order of protection or a civil no-contact order granting the tenant exclusive possession of the premises. Written notice from a tenant posing a threat is not required if the victim has an order of protection or a no-contact order that grants the victim exclusive possession of the premises. A tenant with an oral lease may request a lock change by written notice if one of the tenants reasonably believes that the tenant or a member of the tenant's household is under a credible imminent threat of domestic or sexual violence. Notice requesting a lock change shall be accompanied by an order of protection or no-contact order granting the tenant exclusive possession of the premises. The bill provides that a tenant who changes the locks shall make a good faith effort to give a key to the new locks to the landlord, and provides that "if the landlord changes the locks, the landlord shall make a good faith effort to give a key to the new locks to the tenant as soon as possible or not more than 48 hours of the locks being changed" and that a landlord who changes the locks and does not make a good faith effort to provide a copy of a key to the tenant within 48 hours is liable for any damages to the tenant incurred as a result of not having access to his or her unit. **The bill was passed by both houses and has been awaiting the Governor's signature since June 27, 2007.**

**IOWA:** [H.F. 2349](#), 81<sup>st</sup> Gen. Ass. (Iowa 2006).

This proposed bill would prohibit a landlord from retaliating against a tenant of a dwelling unit or a mobile home space by terminating a rental agreement, raising rent, or decreasing services after a tenant has received police or emergency assistance in response to a domestic violence situation. This bill died in committee; similar bills introduced in 2005, [S.F. 208](#), [H.F. 361](#), [H.F. 444](#), and [H.F. 554](#), did not pass.

**IOWA:** [S.F. 2321](#), 81<sup>st</sup> Gen. Ass. (Iowa 2006).

This bill would add an exemption to open records laws for the addresses of recipients of housing assistance who have applied for or have been granted restraining orders to protect themselves or members of their households. This bill passed the Senate, but died in the House.

**KANSAS:** [H.B. 2864](#), 80th Leg. (Kan. 2004).

This bill would exempt domestic violence victims from a provision of Kansas landlord-tenant law prohibiting a tenant from terminating a lease because of a condition caused by the tenant or a person or animal on the premises with the tenant's consent. It would also allow a tenant who is a victim of domestic violence to terminate a month-to-month tenancy "upon written notice to the landlord." The bill defines "victim of domestic violence" as any person "who can prove the existence of domestic violence" by providing (1) a court order, (2) a police record, (3) documentation that the abuser has been convicted under relevant statutes, (4) medical documentation of the abuse, (5) a statement by a counselor, social worker, health care provider, clergy member, shelter worker, legal advocate, domestic violence or sexual assault advocate, or any other professional, or (6) a sworn statement from the person attesting to the abuse. This bill died in a House committee.

**MASSACHUSETTS:** [S.B. 2328](#) (formerly [S.B. 793](#)), 184th Gen. Ct. (Mass. 2005-6).

This bill would amend existing housing discrimination laws to prohibit discrimination against victims of domestic violence, rape, sexual assault, and stalking. It would also create a defense to eviction if a landlord attempts to evict a tenant because the tenant was a victim of one of those crimes. In addition, “[i]f a tenant notifies the landlord in writing that he or she is a victim” of one of those crimes, and (1) has a valid order of protection, (2) has notified a law enforcement officer, or (3) has consulted with any of a variety of service providers, then “the tenant may terminate the rental agreement and quit the premises without further obligation.” Tenant screeners may not provide landlords with information about prospective tenants’ status as victims of the above crimes; they may be subject to civil liability if they do so. This bill and similar bill, H.B. 3163, did not pass in 2006. A similar bill was introduced as S.B. 707 in 2003.

**MICHIGAN:** [S.B. 808](#), 93d Leg., 1st Leg. Sess. (Mich. 2005).

This bill would permit a tenant who is a victim of domestic assault while that person is a tenant to terminate a lease effective upon submission of written notice of termination and written evidence that the tenant is a victim of domestic assault. The bill died in 2005.

**MISSISSIPPI:** [S.B. 3035](#), 122d Leg. Sess. (Miss. 2007).

This bill would amend Mississippi’s crime victim compensation law so that “necessary expenses” include property damage repair; replacement costs for windows, doors, locks or other security devices of a residential dwelling; and temporary housing and relocation assistance for victims of domestic violence in “imminent danger.” Following Senate passage of the bill, the House passed an amended version, but the differences were not reconciled in conference and the bill died in March 2007.

**NEW HAMPSHIRE:** [H.B. 1565](#), 159th Sess. Gen. Ct. (N.H. 2006).

This bill would create a defense to eviction if a tenant has filed for or obtained a restraining order as a result of the incident that is the basis for termination. The tenant also has a defense if the tenant has a restraining order and the incident leading to the eviction was a violation of that restraining order. The bill would explicitly provide courts discretion to evict the tenant accused of the violation. The bill was passed by the House in 2006 but died in the Senate.

**NEW YORK CITY:** [Intro. 149](#) (N. Y. C. Council 2006).

This proposed local law would prohibit housing discrimination against victims of domestic violence, sex offenses or stalking. Such discrimination includes taking adverse actions against an individual “based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.” It would also require that landlords permit victims of domestic violence, sex offenses or stalking to terminate a lease early. This bill died in committee in 2006. A similar bill was previously introduced as Intro. 107 in 2002. An amended version of Intro. 107 that did not include the housing provisions was enacted in 2003. This bill was previously introduced in the 2004 session as [Intro. 305](#).

**NEW YORK STATE:** [A.B. 5916](#)/[S.B. 3072](#), 229<sup>th</sup> Reg. Sess. (N.Y. 2007).

This bill would amend the state’s fair housing law to prohibit housing discrimination against victims of domestic violence and stalking. The bill would also prohibit any person or entity from obtaining or providing information relating to the status of a person as a victim of domestic violence or stalking. The bill was passed by the Assembly but died in the Senate. In the previous session, the bill, known as A.B. 6282/S.B. 4112, was passed by the Assembly but not by the Senate. Similar bills were previously introduced as S.B. 4812 and A.B. 8135 in 2003.

**NEW YORK STATE:** [A.B. 7099](#)/[S.B. 3708](#), 229<sup>th</sup> Reg. Sess. (N.Y. 2007).

This bill would amend New York City laws so that for purposes of determining primary residency, a tenant who is a victim of domestic violence who has been forced to leave the unit because of such violence, and who asserts an intent to return to the housing accommodation, shall be deemed to be occupying the unit as

his or her primary residence. A landlord may not commence a proceeding to recover possession of the housing, on the grounds that it is not the tenant's primary residence, unless the landlord gives thirty days' notice to the tenant first. The bill died in both houses. Similar versions were introduced in 2005 as S.3708, and in 2003-04 as A.7344A/S.3420A.

**NEW YORK STATE:** [A.B. 3149](#), 229<sup>th</sup> Reg. Sess. (N.Y. 2007).

This bill would authorize the state crime victims board to award victims of domestic violence money to reimburse expenses for relocation and for installing or increasing emergency residential security measures (including home security devices and replacing or increasing the number of locks). Board members would be authorized to make emergency awards, pending a final decision, of up to \$2000 for relocation expenses and up to \$1000 for residential security costs. The bill died in the Assembly. A similar bill, A.B. 5851, was previously introduced in 2005 but died in committee.

**OREGON:** [H.B. 3290](#), 72<sup>nd</sup> Leg. Ass. (Or. 2003).

This proposed law would amend Oregon's fair housing laws to prohibit any discrimination against "victims of domestic violence, sexual assault or stalking" in rentals, sales, leases, or other real estate-related transactions. This bill died in 2003.

**PENNSYLVANIA:** [H.B. 1396](#), Pa. Gen. Ass. (Pa. 2005).

This bill provides that if a victim of domestic violence appeals an action for the possession of real property for rent due, that appeal may serve as a supersedeas if the tenant pays any rent that has accrued during the court proceeding within ten days of its becoming due. This bill died in 2005.

**UTAH:** [H.B. 194](#), 56<sup>th</sup> Leg. (Utah 2005).

This bill would enact the "Fair Housing for Domestic Violence Victims and Landlord Protection Act." The bill would allow a tenant who is a domestic violence victim and who provides documentation of the violence to require the owner to exclude the perpetrator of the violence from the victim's unit (if the perpetrator is not a renter). If the perpetrator is a renter but ends his or her tenancy or is evicted, it would allow a victim to require an owner to exclude the perpetrator from common areas of the property. It would also allow a victim to void the rental agreement upon fourteen days written notice and documentation of the violence. Acceptable forms of documentation for domestic violence include a protective order or a copy of a police report regarding an act of domestic violence. The act would explicitly authorize landlords to evict perpetrators of domestic violence. The bill died in 2005.

**WASHINGTON:** [S.B. 5553](#), 58<sup>th</sup> Leg. (Wash. 2003).

This proposed bill provides that a landlord or neighbor, with supporting evidence, may request a court to authorize immediate eviction of a tenant if the tenant has committed acts of domestic violence (or committed other specified crimes). If "the cotenant is a victim of domestic violence that is the basis for the proceeding," the cotenant shall not be removed or evicted. The bill died in committee in 2004.

**WASHINGTON:** [H.B. 2144](#), 58<sup>th</sup> Leg. (Wash. 2003).

This proposed law would prohibit a tenant from engaging in "any act of domestic violence . . . against another tenant of the same rental dwelling unit that results in an arrest" but "does not authorize the termination of tenancy and eviction of the victim of an act of domestic violence." A landlord "may not be held liable in any cause of action" for bringing an unlawful detainer action against a tenant who has committed an act of domestic violence. The bill died in 2004.

*This state law guide, with links to cited laws and bills, is available on the Legal Momentum web site at <http://legalmomentum.org/issues/vio/housing.pdf>.*

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