

*The Violence Against Women Act (VAWA) of 2005 is a federal law that has important new protections for victims of domestic violence, dating violence, or stalking. This law protects victims living in public housing or using federal housing vouchers anywhere in the country. Many states also have laws that give housing rights to victims of domestic violence, dating violence, sexual assault, or stalking. For more on state laws, see Legal Momentum's state law guide [Housing Laws Protecting Victims of Domestic and Sexual Violence](#), available on our website at [www.legalmomentum.org](http://www.legalmomentum.org).*

*If you would like help enforcing your housing rights under VAWA, contact Legal Momentum at [peo@legalmomentum.org](mailto:peo@legalmomentum.org) or 212-925-6635.*

### **1. What does VAWA 2005 do?**

VAWA protects victims of domestic violence, dating violence, or stalking from being evicted because of the violence. It also makes it illegal to deny access to public housing or to a voucher based on an applicant being a victim of domestic violence, dating violence, or stalking.

### **2. Who is covered by VAWA 2005?**

The protections in VAWA 2005 apply only to tenants living in federally-funded public housing or using federally-funded housing vouchers. (These vouchers are often called "Section 8" vouchers.) The law protects victims of domestic violence, dating violence, or stalking. It also protects immediate members of the victim's family, except for the perpetrator of the violence. VAWA 2005's protections do not apply to victims who are living in private housing and not receiving any kind of federal subsidy.

### **3. When did the VAWA housing protections take effect?**

The protections took effect on January 5, 2006. They apply to all eviction actions begun after this date.

### **4. What is an illegal eviction under VAWA?**

VAWA protects a victim and her immediate family members from being evicted or cut off from voucher assistance based on incidents of actual or threatened domestic violence, dating violence, or stalking. The law says that incidents of such violence can not be counted as a "serious or repeated violation of the lease" or "good cause" for evicting the victim or ending voucher

assistance. Also, criminal activity “directly relating” to such violence cannot be the basis of an eviction; this is an exception to the “one-strike” rule generally applicable in public housing.

This means, for example, that it is illegal to evict the victim of a domestic violence incident because a domestic violence fight was “too loud,” or because she called the police or got a protective order, or on the grounds that the domestic violence incident was criminal activity that violated the lease.

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

No. If a victim engages in criminal activity or other lease violations unrelated to the abuse, she may be evicted, so long as the landlord does not hold the victim to a more demanding standard than other tenants. Additionally, if a landlord proves that allowing the victim to remain a tenant would pose an “actual and imminent threat” to other persons on the property, the victim may be evicted.

**6. Can the abuser or stalker be evicted?**

Yes. The law lets housing authorities and Section 8 landlords “bifurcate” (split) a lease to evict the perpetrator of domestic violence, dating violence, or stalking or to end voucher assistance to the perpetrator.

**7. How can VAWA help me if the housing authority or my landlord threatens to evict me because of the violence against me?**

Inform housing authority or your landlord that new provisions in VAWA make it illegal to bring an eviction action based on acts of domestic violence, dating violence, or stalking, or criminal activity “directly related” to such violence. You may want to show a copy of the law and this fact sheet. You can download the relevant provisions of the law at Legal Momentum’s website, [www.legalmomentum.org](http://www.legalmomentum.org). You may want to bring these materials to any grievance proceeding related to a threatened eviction based on such violence. Because the law is so new, the housing authority or landlord may not know about it yet.

**8. How do I raise the VAWA protections if I’m served with eviction papers based on acts of violence against me?**

Raise the VAWA protections as a defense to the eviction (along with any other defenses you might have). If you are working with a housing attorney, you may need to bring his or her attention to the law and how it applies to you. If you are representing yourself, you may want to bring a copy of this fact sheet and the relevant provisions of the law to your hearing. You can download the provisions of the law at Legal Momentum’s website, [www.legalmomentum.org](http://www.legalmomentum.org).

**9. Can my landlord ask me to provide “proof” that I am a victim?**

Yes. If you are claiming protection from an eviction on the ground that you are a victim, a housing authority or Section 8 landlord may ask you to provide “certification” of the violence. The law says that a victim can meet this requirement by providing a court record, a police record, or a statement from a victim service provider, medical professional, or lawyer who helped you address the violence. You do not need to have obtained a protective order or called the police to be protected under VAWA. The certification must include the name of the abuser or stalker.

The law also refers to a “HUD-approved” certification form, but this form has not been created yet. Instead, you should simply provide the specific information listed above.

**10. If I am submitting a statement from a professional as proof for the violence, what should the statement include?**

The statement can be from an employee or a volunteer of a victim services agency, lawyer, or doctor whom you asked for help in addressing the violence. The individual providing the statement must state “under penalty of perjury” that he or she believes that the incidents that are the basis for the eviction action are “bona fide” (real) incidents of abuse. You, as the victim, must also sign the certification. And the certification must name the offender.

**11. How long do I have to provide the certification?**

You are only required to provide certification if your landlord or the housing authority asks for it. If they do ask for certification, the landlord must give you at least 14 business days (weekends do not count) to provide the certification; some landlords may give you more than 14 days. If you do not respond by the deadline the landlord sets, the landlord may bring an eviction proceeding against you.

**12. Will information I provide be kept confidential?**

Yes, it should be. The housing authority or landlord must keep information provided about the abuse confidential, including the fact that you are a victim of domestic violence, dating violence, or stalking. A housing authority or landlord may disclose the information if you request or agree to the disclosure in writing, if the information is required for use in an eviction proceeding, or if disclosure is otherwise required by law.

**13. What if I’m applying for new housing or a new voucher?**

VAWA also makes it illegal to reject an application for public housing or a Section 8 voucher *because* the applicant is a victim of domestic violence, dating violence, or stalking. Additionally, some housing authorities have established preferences for victims of abuse. However, being a current or former victim does not guarantee that you will receive public housing or a voucher. You still must meet other standard eligibility requirements.

**14. What if my landlord discriminates against me in some other way because I'm a victim of domestic or sexual violence?**

Unfortunately, VAWA does not include comprehensive discrimination provisions. For example, VAWA does not have specific protections that would apply if your landlord denied you a transfer based on the fact that you are a victim. In some cases, however, discrimination against victims of domestic or sexual violence may be a form of sex discrimination, and both private landlords and public housing authorities could be liable for such discrimination under federal and state fair housing laws. There are also several states that have passed laws that do explicitly prohibit discrimination against victims of domestic or sexual violence. Legal Momentum's state law guide on housing laws can help you figure out if your state has a law.

**15. What if I need to move because of the violence before the end of my lease?**

VAWA does not give you a right to break a lease. However, there are several states that have passed laws that give victims a right to end a lease early to move to safety. Legal Momentum's state law guide on housing laws can help you figure out if your state has a law. Additionally, VAWA makes clear that a family with a Section 8 voucher may be eligible for a new voucher in a different jurisdiction if they moved to protect the health or safety of a victim of domestic violence, dating violence, or stalking. The federal agency that regulates housing authorities also recommends in its guidebook for housing authorities that they grant transfer requests related to violence.

**16. What if I need to change my locks to keep the abuser out?**

VAWA does not explicitly address this issue. It does instruct housing authorities and Section 8 landlords to honor civil protection orders and other court orders that address access to the home or control of the property. Also, there are several states that have passed laws that provide victims a right to have their locks changed. Usually, the victim has to pay. Legal Momentum's state law guide on housing laws can help you figure out if your state has a relevant law.

**17. What if I live in a state with a law that has greater protections for victims of domestic violence, dating violence, or stalking than VAWA?**

VAWA says that the more protective state law applies.

**18. Where can I find a copy of the housing protections in VAWA? Where can I find out about state laws?**

The Legal Momentum website ([www.legalmomentum.org](http://www.legalmomentum.org)) has the VAWA provisions posted and a guide on state housing laws for domestic violence, sexual assault, and stalking victims, available at <http://www.legalmomentum.org/issues/vio/housing.pdf>.

**Consult the appropriate agency or an attorney about your rights.**

This guide is intended to provide accurate, general information regarding legal rights relating to housing. Yet, because laws and legal procedures are subject to frequent change and differing interpretations, Legal Momentum cannot ensure that the information in this guide is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your particular situation. If you need assistance in finding a lawyer, contact Legal Momentum, the bar association in your state, or your local legal services office, domestic violence coalition, sexual assault coalition, or service provider.

For more information or assistance, please contact 212-925-6635 or [peo@legalmomentum.org](mailto:peo@legalmomentum.org).

This guide is available for downloading at [www.legalmomentum.org](http://www.legalmomentum.org).