

Housing protections in VAWA 2005

H.R. 3402, Violence Against Women and
Department of Justice Reauthorization Act of 2005

SEC. 606. AMENDMENTS TO THE LOW-INCOME HOUSING ASSISTANCE VOUCHER PROGRAM.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended--

(1) in subsection (c), by adding at the end the following new paragraph:

` (9)(A) That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

` (B) An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

` (C)(i) Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

` (ii) Notwithstanding clause (i), an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

` (iii) Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

` (iv) Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing

agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

` (v) Nothing in clause (i) may be construed to limit the authority of an owner, manager, or public housing agency to evict or terminate from assistance any tenant or lawful occupant if the owner, manager or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

` (vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.';

(2) in subsection (d)--

(A) in paragraph (1)(A), by inserting after `public housing agency' the following: `and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission';

(B) in paragraph (1)(B)(ii), by inserting after `other good cause' the following: `, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence'; and

(C) in paragraph (1)(B)(iii), by inserting after `termination of tenancy' the following: `, except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under

this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.';

(3) in subsection (f)--

(A) in paragraph (6), by striking `and';

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

`(8) the term `domestic violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

`(9) the term `dating violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994; and

- ^(10) the term `stalking' means--
 - ^(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and
 - ^(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - ^(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to--
 - ^(i) that person;
 - ^(ii) a member of the immediate family of that person; or
 - ^(iii) the spouse or intimate partner of that person;
- ^(11) the term `immediate family member' means, with respect to a person--
 - ^(A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or
 - ^(B) any other person living in the household of that person and related to that person by blood and marriage.';
- (4) in subsection (o)--
 - (A) by inserting at the end of paragraph (6)(B) the following new sentence: `That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by or for denial of admission if the applicant otherwise qualifies for assistance for admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.';
 - (B) in paragraph (7)(C), by inserting after `other good cause' the following: `, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence';
 - (C) in paragraph (7)(D), by inserting after `termination of tenancy' the following: `; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household

or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate, assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.'; and

(D) by adding at the end the following new paragraph:

` (20) Prohibited basis for termination of assistance-

˘ (A) IN GENERAL- A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

˘ (B) CONSTRUUAL OF LEASE PROVISIONS- Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal activity justifying termination of assistance to the victim or threatened victim.

˘ (C) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY- Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking.

˘ (D) EXCEPTIONS-

˘ (i) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE FOR CRIMINAL ACTS- Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

˘ (ii) COMPLIANCE WITH COURT ORDERS- Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution possession of property among the household members in cases where a family breaks up.

˘ (iii) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR LEASE VIOLATIONS- Nothing in subparagraph (A), (B), or (C) limit any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to terminate.

˘ (iv) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR IMMINENT THREAT- Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the

public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

` (v) PREEMPTION- Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.';

(5) in subsection (r)(5), by inserting after `violation of a lease' the following: `, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit'; and

(6) by adding at the end the following new subsection:

` (ee) Certification and Confidentiality-

` (1) CERTIFICATION-

` (A) IN GENERAL- An owner, manager, or public housing agency responding to subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the owner, manager, or public housing agency requests such certification.

` (B) FAILURE TO PROVIDE CERTIFICATION- If the individual does not provide the certification within 14 business days after the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing, nothing in this subsection or in subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that

commits violations of a lease. The owner, manager, public housing agency, or assisted housing provider may extend the 14-day deadline at their discretion.

` (C) CONTENTS- An individual may satisfy the certification requirement of subparagraph (A) by--

` (i) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

` (ii) producing a Federal, State, tribal, territorial, or local police or court record.

` (D) LIMITATION- Nothing in this subsection shall be construed to require an owner, manager, or public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section.

SEC. 607. AMENDMENTS TO THE PUBLIC HOUSING PROGRAM.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended--

(1) in subsection (c), by redesignating paragraph (3) and (4), as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

` (3) the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking';

(3) in subsection (l)(5), by inserting after 'other good cause' the following: `, and that an incident or incidents of actual or

threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence';

(4) in subsection (l)(6), by inserting after 'termination of tenancy' the following: `; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.'; and (5) by inserting at the end of subsection (t) the following new subsection:

` (u) Certification and Confidentiality-

` (1) CERTIFICATION-

` (A) IN GENERAL- A public housing agency responding to subsection (I)(5) and (6) may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the public housing agency requests such certification.

` (B) FAILURE TO PROVIDE CERTIFICATION- If the individual does not provide the certification within 14 business days after the public housing agency has requested such certification in writing, nothing in this subsection, or in paragraph (5) or (6) of subsection (I), may be construed to limit the authority of the public housing agency to evict any tenant or lawful occupant that commits violations of a lease. The public housing agency may extend the 14-day deadline at its discretion.

` (C) CONTENTS- An individual may satisfy the certification requirement of subparagraph (A) by--

` (i) providing the requesting public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

` (ii) producing a Federal, State, tribal, territorial, or local police or court record.

` (D) LIMITATION- Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency's discretion, a public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

` (E) PREEMPTION- Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

` (F) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT- Compliance with this statute by a public housing agency, or assisted housing provider based on the certification specified in subparagraphs (A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by subparagraph (D) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a public housing agency or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (l)(5) and (6).

` (2) CONFIDENTIALITY-

` (A) IN GENERAL- All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is--

` (i) requested or consented to by the individual in writing;

` (ii) required for use in an eviction proceeding under subsection (l)(5) or (6); or

` (iii) otherwise required by applicable law.

` (B) NOTIFICATION- Public housing agencies must provide notice to tenants assisted under section 6 of the United States Housing Act of 1937 of their rights under this subsection and subsection (l)(5) and (6), including their right to confidentiality and the limits thereof.

` (3) DEFINITIONS- For purposes of this subsection, subsection (c)(3), and subsection (l)(5) and (6)--

` (A) the term `domestic violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

` (B) the term `dating violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

` (C) the term `stalking' means--

` (i)(I) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

` (II) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

` (ii) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to--

` (I) that person;

` (II) a member of the immediate family of that person; or

` (III) the spouse or intimate partner of that person; and

` (D) the term `immediate family member' means, with respect to a person--

` (i) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

` (ii) any other person living in the household of that person and related to that person by blood and marriage.'.