

New Federal Law Forbids Domestic Violence Discrimination in Public Housing

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Landlords often react to domestic violence by evicting the victim of the violence. Survivors of domestic violence or stalking who live in public or subsidized housing gained important new protections from this kind of discrimination when the Violence Against Women Act of 2005 (VAWA) became law on January 5, 2006.

While unable to support VAWA as a whole because of last minute amendments, the ACLU offered its strongest support for these provisions. Indeed, the ACLU Women's Rights Project proposed and initially drafted many of these sections. Too many ACLU Women's Rights Project clients have lost public or subsidized housing as the result of reporting domestic abuse to the police, seeking civil protection orders against their abusers, or taking other steps to end the violence in their lives. This is not only unjust, but also sends the pernicious message that battered women must keep abuse secret or lose their homes. VAWA 2005 ensures that battered women in public or subsidized housing will not risk homelessness when they seek help to end a violent relationship.

Based on Congressional findings that recognize the strong link between domestic violence and homelessness and the pervasiveness of housing discrimination against victims of domestic violence—

- VAWA prohibits public housing agencies (PHAs) from denying public housing or Section 8 housing voucher assistance because an applicant has been a victim of domestic violence or stalking. VAWA also prohibits project-based Section 8 landlords and private landlords accepting housing vouchers from refusing to rent to an individual because she has been a victim.
- Even more importantly, VAWA makes clear that domestic violence or stalking does not provide PHAs and subsidized landlords with good cause for terminating the tenancy or voucher of the victim of that activity.
- VAWA also explicitly amends the one-strike rule, which lets PHAs and subsidized landlords evict based on criminal activity engaged in by a member of the tenant's household or any guest or other person under the tenant's control, whether or not the tenant had knowledge of the criminal activity or the power to prevent it. VAWA states that the one-strike rule does not permit eviction of an individual because she or someone in her family is a victim of domestic violence or stalking. (In a narrow, but potentially troubling exception, the one-strike rule still applies if the PHA or Section 8 landlord can show an "actual and imminent threat" to others if the tenancy or voucher assistance is not terminated.)
- Under VAWA, PHAs and subsidized landlords may still terminate an abuser's tenancy, bifurcating a lease if necessary to allow the rest of the household to remain.
- VAWA provides that when a family holding a housing voucher moves out of a unit in violation of a lease to protect the safety of a victim of domestic violence, the family may retain the voucher. Previously, moving out in violation of a lease would have rendered a family ineligible for voucher assistance.
- When an individual claims that her tenancy or voucher should not be terminated because she is a victim of domestic violence or stalking, a PHA or subsidized landlord can request proof that she is a victim. Acceptable proof includes certification from an attorney, domestic violence service provider, or medical professional, or a police or court record. An individual has at least 14 business days to provide the documentation.
- VAWA requires PHAs to formally address domestic violence and the needs of victims of domestic violence in their regular planning processes, thus forcing PHAs to consider these issues and providing

a regular opportunity for community collaboration in crafting these plans.

- VAWA authorizes \$10 million in demonstration grants to PHAs and subsidized housing providers to develop programs to address domestic violence. The best practices enabled by these grants will serve as models to other PHAs and landlords seeking to enhance the safety of victims and survivors.
- VAWA protects the safety of survivors of domestic violence who are forced to flee their homes by ensuring that shelters and other domestic violence service providers are not required to provide identifying information that could be used to track and locate victims to the Homeless Management Information Service (HMIS). HMIS is a program designed to track homeless individuals' use of services and programs.

VAWA 2005 fills an important need, granting housing security to low-income survivors of domestic violence otherwise faced with the impossible choice between living in terror at home and living homeless on the streets. For further information about VAWA's housing provisions, please contact Emily Martin, Acting Deputy Director, ACLU Women's Rights Project emartin@aclu.org.