

Domestic Violence Survivors with Criminal Records: What You Should Know When Applying for Federally Subsidized Housing



This informational packet has basic information for survivors of domestic violence that have a criminal record and are applying for federally subsidized housing. Many survivors have a prior arrest or conviction that is related to the violence committed against them. For example, the abuser may have forced the survivor to commit a crime, the survivor may have been mistakenly arrested during an incident of abuse, or the survivor may have used drugs as a way to cope with the abuse.

Owners and housing authorities can adopt their own policies for screening applicants for prior convictions, within certain limits. These limits vary for different subsidized housing programs. These policies must be in writing and available to applicants. Survivors should work with advocates, including legal aid attorneys, to examine these policies and identify their housing options.

1. Can I be permanently barred from certain housing programs?

Yes. Two types of households are barred from federally subsidized housing. First, a household is barred if any member is a lifetime registered sex offender. Second, a household is barred from public housing and the Section 8 Voucher program if any member has been convicted for the manufacture or production of methamphetamine (“meth”) at federally assisted housing.

2. Can I be temporarily barred from certain housing programs? Are there exceptions?

Yes. For certain programs, there is a three-year (or longer) ban if any member of your household has been evicted from federally assisted housing for drug-related criminal activity. The three-year ban applies to applicants for public housing, Section 8 vouchers, and project-based Section 8.

However, there are exceptions to the ban. You still may be able to apply if you or the household member involved in the drug-related activity resulting in eviction successfully completed a drug rehabilitation program. You also may be able to apply if your circumstances have changed, such as where the household member responsible for the drug-related activity died or is in prison.

3. What are my options if I am temporarily banned due to my criminal history?

If you face a temporary ban by a housing authority or a Section 8 owner, you could apply to another housing authority or Section 8 owner. In addition, you may be eligible for other programs, such as Shelter Plus Care or Supportive Housing, or state or locally funded housing programs. For more information, please consult with advocates, including your local legal aid office, and check the HUD website for available housing, http://portal.hud.gov/hudportal/HUD?src=/topics/rental_assistance.

4. Can I be denied housing for being convicted of other crimes?

Maybe. A housing authority or owner may have additional criminal screening rules. However, not all convictions can be a reason for denying housing. Only convictions for crimes that are drug-related, violent, or would threaten the health, safety, or peaceful enjoyment of the housing can be reasons for denying housing. Domestic violence survivors and family members with convictions such as shoplifting, writing bad checks, or prostitution should not be rejected unless the housing authority or owner can show that the activity would threaten the health and safety of other residents. See also Question 6.

Importantly, the housing authority or owner must find that the crime occurred within a “reasonable period” of time before the admission decision. Many housing authorities and owners go back three years in checking an applicant’s criminal history. The Department of Housing and Urban Development (HUD) suggests that “five years may be reasonable for *serious* offenses” and notes that housing providers should consider the type of crime when deciding how far back to check criminal records.

5. Can I be denied housing on the basis of an arrest alone?

No. A housing provider should never reject you on the basis of an arrest that did not lead to a conviction. If that happens, you should contact a legal aid office.

6. What if I am denied housing because of my criminal record?

If a housing authority or Section 8 owner denies you housing because of your criminal history, you have a right to see a copy of the criminal background check that the housing authority or owner used to make the decision. Since this information can sometimes be wrong, it would be important for you to review the background check.

If there is a close link between the criminal history and acts of domestic violence against you, you may be able to argue that the denial violates the Violence Against Women Act (VAWA). You may also be able to argue that the denial of housing violates fair housing laws. In addition, you may be able to challenge the denial in a hearing. Contact your local legal aid office to find out whether these laws apply to you.

Survivors sometimes face denials of housing based on the abuser's criminal history if the abuser was originally listed on the household's application. For example, the abuser may have been living with you when the application was submitted, but moved out by the time the housing provider looked at your application for criminal history. In this situation, you should give proof to the housing provider showing that the abuser is no longer part of the household, such as a restraining order, divorce judgment, or a statement from you or a service provider.

7. What if I am not sure about my criminal record?

Be careful of what you say if you are not certain about what happened or the status of your criminal case. For example, you may be unsure as to whether there was a conviction in your case, whether it was dismissed, or whether it was considered a felony. If a housing application asks about a criminal record, and you are unsure of the answer, you should say "I don't know" or "I'm not sure." If you are untruthful about your criminal history, that untruthful statement may be a reason for denying your housing application, and/or for an eviction or termination if it is discovered later.

8. Will the information I provide a housing authority or owner regarding past domestic violence be confidential?

Yes. A federal law, the Violence Against Women Act (VAWA), states that applicants of most federally assisted housing who provide information on their status as survivors of domestic violence have a right to confidentiality. Housing authorities and owners may not share this information with outside parties or enter it into a shared database. The information can only be shared with employees who need it for their work.

9. How can I improve my chances of being admitted?

You should give the housing authority or owner any information that helps to show that circumstances have changed since the arrest or conviction occurred. It is especially helpful to provide documents showing that you will be a good tenant, such as letters of support from employers, pastors, substance abuse treatment providers and family, or flyers from groups you belong to, including volunteer organizations and church. If your criminal history is related to violence committed against you or a household member, you should explain that to the housing provider and include any supporting documents, if it is safe for you to do so. You should also explain why it is unlikely that you will be involved in any future crimes, such as by showing that you ended your relationship with the abuser and that you have sought help for the abuse.

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