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No One Should Be Punished for Calling 911

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No One Should Be Punished for Calling 911: Responding to the Spread of Harmful Housing Ordinances in Illinois

Local governments throughout the country have enacted ordinances, typically called crime-free housing or nuisance-property ordinances, that penalize property owners based on alleged unlawful activity occurring on rental properties. Although these ordinances are meant to reduce criminal and nuisance activity, their enforcement frequently leads to a variety of harmful effects on low-income tenants and communities. They can increase displacement and housing instability, perpetuate segregation, and pose heightened risks of harm to survivors of domestic violence and individuals with disabilities—survivors and individuals who need to call 911 for police and emergency services.



Because of these risks, we have worked with partner organizations to combat the spread of these ordinances throughout Illinois. In addition to public education and policy advocacy at a municipal level, we recently convinced the state legislature to pass a statewide law to solve one of the most pressing problems advocates have identified—ordinance enforcement that penalizes landlords or tenants based on 911 calls and harms survivors of domestic violence and individuals with disabilities. Despite these successful advocacy efforts, much work remains to achieve broader solutions to the problems caused by crime-free housing and nuisance-property ordinances in Illinois and nationwide.

The Problem: Harmful Local Ordinances Placing Tenants at Risk

[Crime-free housing and nuisance-property ordinances \(PDF\)](#) typically specify a broad list of conditions or behavior deemed to violate the ordinance. Landlords are subject to penalties for failing to evict tenants accused of committing one of the listed offenses or

for otherwise failing to take steps to “abate” the alleged unlawful activity. These ordinances create incentives for landlords to evict entire households to avoid the risk of incurring penalties. Many ordinances also require landlords to incorporate a broad “crime-free” addendum into their rental leases; the addendum subjects tenants to eviction for a wide range of listed offenses. Some addenda go so far as to define any criminal offense or local-ordinance violation as a material breach of the lease, whether or not the violation is related to the tenancy or the health and safety of other tenants. The enforcement of these ordinances can lead to unnecessary evictions based on allegations of minor offenses. The resulting displacement and housing instability can have significant negative effects—[particularly on families with children \(PDF\)](#) .

Advocates have seen the heightened risk of harm these ordinances pose to tenants who are survivors of domestic and sexual violence. Without requiring landlords to consider the outcome of an emergency call or ask who made the call and why, many ordinances base enforcement on the number of calls for police service made from particular rental properties. In Illinois alone, at least 35 local governments have enacted ordinances that explicitly base enforcement on 911 calls—for example, by making it a violation for a landlord to allow a tenant to make an “unreasonably high number” of police calls or by setting a certain threshold number of calls that constitute a violation. Because these provisions are rarely coupled with exemptions for victims, individuals may be cited and threatened with eviction for calling 911 to report criminal activity committed against them. Individuals with disabilities are also at heightened risk of harm since they and their loved ones need to be able to call the police to seek mental health and emergency services, including suicide prevention. These ordinances rarely incorporate due process protections for tenants—protections such as notice of the alleged violation, an opportunity to contest the allegation before penalties are imposed, or the opportunity to present evidence of mitigating circumstances.

In many instances, the enactment and enforcement of these ordinances may be unlawful under federal law. For example, they may violate the Fair Housing Act’s prohibition against housing discrimination on the basis of sex because [most victims of domestic violence are women \(PDF\)](#) . The ordinances may violate tenants’ [First Amendment rights](#) since individuals have a right to petition the government for a redress of grievances; the right to petition includes the right to seek law enforcement assistance. And, as racial and ethnic minorities have [more frequent contact with the police \(PDF\)](#) , local governments may violate the Fair Housing Act by relying on arrest data as a primary basis of enforcement. Civil rights laws are also implicated when these ordinances disproportionately harm persons with mental or physical disabilities.

Despite these flaws, the number of crime-free housing and nuisance-property ordinances continues to grow. More than 2,000 local governments throughout the country have adopted ordinances of this kind. At least 125 are in Illinois alone. We have been working for years to combat the spread of these ordinances and to educate local governments about the harms they pose. Through meetings with local social service providers and tenants and through enforcement documents gathered by using

the [Illinois Freedom of Information Act](#), we have obtained information demonstrating the consequences, including informal evictions and displacement, for innocent and vulnerable tenants. We have brought this information to the attention of local decision makers by writing letters and meeting with city officials and employees. We have offered training sessions to help local governments understand these harms and to improve their enforcement methods.

In some instances, local education and advocacy efforts have led to significant improvements. Some local governments have incorporated tenant protections into their ordinances, including carve-outs for survivors of domestic and sexual violence and individuals with disabilities. Others have added due process protections, ensuring that tenants will be notified and have an opportunity to contest any allegations of wrongful conduct before penalties are imposed. Some have invited advocates to participate in training programs designed to educate property owners and city staff involved in ordinance enforcement about fair housing rights. Despite these successes, however, local policy advocacy has not curbed the spread of crime-free housing and nuisance-property ordinances in Illinois. Additional local governments are enacting ordinances nearly every month, and we continue to hear from tenants who have been affected and from service providers whose clients have been threatened with eviction or warned not to call 911.

One Solution: Statewide Legislation

In the spring of 2014 we began discussing the possibility of passing legislation to respond to the spread of harmful crime-free housing and nuisance-property ordinances in Illinois. However, we knew that an effort to ban them altogether would not succeed. These ordinances have historically had strong support in the Illinois General Assembly. In fact, legislators have pressed forward with a variety of legislative proposals designed to expand these ordinances' geographic reach and effect; we have had to work hard to oppose them. Their efforts have included legislation to establish a statewide nuisance-property ordinance and to allow all local governments to enact crime-free housing ordinances—a power currently limited to those with [home rule powers](#).

For these reasons, we focused our discussions on crafting a narrower legislative fix. We knew that advocates in [Pennsylvania](#) had been successful in passing statewide legislation preempting ordinances that penalized tenants or landlords for contacting police services, and we saw this as an achievable goal. We also saw it as an initiative that could solve one of the most significant problems identified with the enforcement of these ordinances—the provision that discourages or penalizes people for calling 911 for help. We recognized that even this more limited legislative initiative would be an uphill battle. In Illinois any effective tenant protection against these harmful ordinances would be a home rule override that required a supermajority vote in both houses to pass. For this reason, a legislative initiative of this kind would not succeed without strong, bipartisan support.

Despite the anticipated challenges, we moved forward with the legislative initiative. We hoped it would be an opportunity to educate legislators about the harmful impact of these ordinances and to mobilize opposition to the harmful legislation we anticipated needing to oppose—for example, legislation seeking to expand the number of jurisdictions with authority to pass crime-free housing ordinances. By discussing the proposal with organizations that had partnered in efforts to combat these ordinances in the past, we built a strong coalition of core supporting organizations—including [the ACLU of Illinois](#), [the Illinois Coalition Against Domestic Violence](#), [Housing Action Illinois](#), [the Chicago Metropolitan Battered Women’s Network](#), and [Open Communities](#)—to move the legislation forward.

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We then presented the legislative proposal to Illinois Sen. Toi Hutchinson. In addition to supplying information on the geographic spread of these ordinances and on the affected tenants, we shared reports and articles highlighting the harm caused. A 2015 [Al Jazeera America](#) article quoted Gwyn Kaitis of the Metropolitan Chicago Battered Women’s Network; she directs the statewide hotline for survivors of domestic and sexual violence. As she explained, individuals who call her hotline are often hesitant to call 911 out of a fear that doing so could place their housing at risk. Domestic violence advocates have “spent so many years [encouraging] victims to call for help when incidents occur, trying to get them to report it,” but these ordinances “set us back 30 years on that front.”

Recognizing the serious risk these ordinances pose to survivors of domestic and sexual violence and individuals with disabilities, Senator Hutchinson was eager to craft a statewide legislative solution. Soon after our meeting, she filed [Senate Bill 1547](#). The initial bill banned local governments from penalizing tenants or landlords based on calls for police or emergency service. It included a private right of action to tenants who have been harmed, such as domestic-violence survivors who had been evicted for calling the police. Once the bill was filed, we quickly began expanding our coalition of supporters. We reached out first to tenant, disability, and domestic and sexual violence advocates throughout the state, many of whom were already familiar with the harmful effects of these ordinances in their own communities and so were quick to sign on in support of Senate Bill 1547. [Access Living](#), an organization that advocates on behalf of individuals with mental and physical disabilities, joined the core coalition and helped ensure that the bill included sufficient protections for individuals with disabilities—both

when they call 911 and when friends, family members, or service providers call 911 on their behalf.

The strong support of the growing coalition of supporters proved to be critical as we faced a range of unexpected challenges throughout the legislative session. Moving Senate Bill 1547 through the Illinois General Assembly required constant attention to balancing the competing interests of a wide range of groups, including property owners, local governments, and law enforcement organizations. In the Senate the bill received strong opposition from local governments, which saw it as a barrier to their efforts to shore up public safety and respond to the problems caused by absentee landlords in their communities. In response to this opposition, the coalition ultimately narrowed the scope of the bill's protection. While the bill originally protected all tenants from penalties based on calls for police service, it was narrowed to offer a more tailored protection for survivors of domestic and sexual violence and individuals with disabilities. The coalition saw this compromise as critical to ensuring that the bill would pass and tackle the most dangerous, secondary effects of these ordinances. The amendment added a separate, increased protection for survivors of domestic and sexual violence to prevent local governments from penalizing tenants based on the actions of their abusers.

The amendments narrowing the scope of the protections granted by Senate Bill 1547 succeeded in neutralizing the bill's strongest opponents. However, the amendments led to new opposition from landlords and realtors. The Illinois Association of Realtors and the Illinois Rental Property Association—both unlikely allies with tenant advocates—have historically partnered with us in efforts to combat the spread of crime-free housing and nuisance-property ordinances. Their members are often placed in the difficult position of having to choose between complying with local ordinances that require eviction and complying with federal tenant protections, which may prohibit eviction, such as the Violence Against Women Act and the Fair Housing Act. Because of lose-lose scenarios of this kind and other objections to these ordinances, these two organizations initially signed on in support of Senate Bill 1547. However, after the focus of the legislation was tailored to protect survivors of domestic violence and individuals with disabilities, we lost their support in the Senate and ultimately faced opposition from them in the House of Representatives.

As a result of the conflicting interest of landlords and tenants in limiting, if not eliminating, crime-free housing and nuisance-property ordinances and the interests of local governments in expanding them as much as possible, the success of this legislative effort required a strong coalition of supporters dedicated to moving it forward. The coalition behind Senate Bill 1547 worked tirelessly throughout the session to highlight the harmful effects of crime-free housing and nuisance-property ordinances on vulnerable groups throughout the state and to demonstrate the need for a statewide legislative fix. As a result, we secured strong bipartisan support in both chambers, including 27 cosponsors in the Senate and 42 in the House of Representatives.

The coalition grew our list of supporting organizations to over 85 groups, including tenant advocates, domestic and sexual violence advocates, and disability advocates. Some were unexpected allies. Beyond our initial alliance with landlords and realtors, we reached out to the law enforcement community early on. We saw the state's law enforcement organizations as potential partners in the effort to protect tenants who need to call 911 to report criminal activity committed against them. By the end of the session, the Illinois State's Attorneys Appellate Prosecutor's Office, the Illinois Sheriffs' Association, the Cook County Sheriffs Office, and the Illinois Attorney General's Office all signed on in support of the bill.

Thanks to the efforts of this growing list of supporting organizations, along with the leadership of Senator Hutchinson, Senate Bill 1547 passed the Illinois Senate Judiciary Committee and Senate Floor with a unanimous vote. The bill then moved on to the House of Representatives; sponsored by Rep. Anthony DeLuca, it ultimately passed the House Floor—again with a unanimous vote. Gov. Bruce Rauner signed the bill into law on August 21, 2015; now known as [Public Act 99-441](#), it will go into effect on November 19, 2015.

Despite the many challenges encountered, the dedicated efforts of the Senate Bill 1547 coalition succeeded in passing a strong protection for survivors of domestic violence and individuals with disabilities. Senate Bill 1547 prohibits Illinois local governments from enforcing crime-free housing or nuisance-property ordinances based on calls for police service for survivors of domestic and sexual violence and individuals with disabilities, or otherwise penalize survivors of domestic violence based on the acts of their abusers. It includes a private right of action for tenants who are harmed by violations of this state law, and it provides for attorney fees to ensure that these rights can be enforced.

Next Steps in Illinois and Throughout the Country

Soon after Senate Bill 1547 passed the General Assembly on May 31, 2015, we met with coalition partners to discuss next steps. We agreed that our first priority was to contact and work with local governments that need to change their ordinances and enforcement practices. In September 2015 the Sargent Shriver National Center on Poverty Law and the ACLU of Illinois began to send letters to local governments that need to revise their ordinances to comply with the new law. Many governments have responded positively to this outreach and have offered to share their proposed changes with us prior to enactment. We will also conduct training on the new law for advocates and municipalities and assist in implementing revised ordinances. We have partnered with Open Communities to draft [a guide for local governments \(PDF\)](#), with support from the U.S. Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity, recommending alternative means of improving the quality of rental housing stock and public safety. For local governments that persist in enforcing crime-free housing or nuisance-property ordinances, this guide offers a model assessment tool to track enforcement and reduce the risk of harmful secondary effects

and potential liability under state and federal law. We plan to work with partner organizations, including the statewide network of domestic violence service providers, to inform tenants about their right to call 911 without placing their housing at risk. We will supply materials to legal services providers and inform them about these new protections.

Although Senate Bill 1547/Public Act 99-441 resolves one critical problem associated with crime-free housing and nuisance-property ordinances, much work remains to be done to address the broader issues, including the risks these ordinances pose to racial and ethnic minorities, families with children, and other innocent tenants. These problems are unfortunately not unique to Illinois; local governments in communities throughout the country enact and enforce similar ordinances with similar results. We are eager to hear from other advocates who would like additional information or assistance on how to combat these ordinances or who want to share examples of the harm caused by crime-free housing or nuisance-property ordinances in their own communities.



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