



# HOUSING RIGHTS OF DOMESTIC VIOLENCE SURVIVORS A STATE AND LOCAL LAW COMPENDIUM

December 2016

Dear Advocates:

The following is a compendium of state and local laws, enacted as of October 2016, that affect the housing rights of domestic violence survivors. This compendium is designed to serve as a starting point for advocates conducting research on housing protections that their state and local laws offer survivors. Advocates should review provisions affecting domestic violence survivors' housing rights on a case-by-case basis to ensure their validity and enforceability in each jurisdiction.

Since we began publishing this compendium in 2010, we have seen a major increase in state and local jurisdictions enacting and implementing a variety of housing protections for survivors. These laws are often the result of efforts by domestic violence and housing advocacy communities to address obstacles that survivors face in accessing and maintaining housing. Our review this year shows that:

- 24 states and localities have **eviction defense** laws for survivors;
- 27 states have **early lease termination** laws for survivors;
- 18 states have **lock change** laws for survivors;
- 8 states allow **lease bifurcations** for survivors;
- 14 states have laws protecting survivor-tenants' **right to call police, law enforcement, or for emergency assistance**;
- 37 states permit courts to **exclude the abuser from the housing and grant the possession of the property to the survivor**;
- 18 states can **require abusers to pay for or provide housing for survivors**;
- 11 states **impose liability on the abuser** for damages to the unit, lock changes, moving expenses, and other housing costs related to the violence;
- 5 states provide **relocation assistance or a right to emergency shelter** for survivors; and
- 43 states and localities have laws pertaining to **confidentiality of housing records and documentation of survivors**, or have an **address confidentiality program**.

Because many states are in the process of adopting and amending domestic violence and housing laws, advocates should carefully check their state and local laws and pending legislation to obtain the most current information. We encourage advocates to send comments, corrections, and updates.

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*This publication is intended to be used to provide background information only and is not intended to provide legal advice or the complete statutory provisions. Specific questions regarding legal issues and compliance with federal and state laws and regulations should be referred to legal counsel.*

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# ALABAMA

Alabama has enacted the following laws regarding survivors' housing rights:

- Orders removing and excluding a restrained party from the residence of the protected party, regardless of ownership of the residence. ALA. CODE 1975 § 30-5-7.
- Confidential voter registration. ALA. CODE 1975 §§ 11-46-36, 17-4-33, 17-9-15, 17-11-5.

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**Orders for protection or modification -- Authorized, issuance, relief, time, amendment, etc.**

ALA. CODE 1975 § 30-5-7

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(b) A court may grant any of the following relief without notice and a hearing in an ex parte protection order or an ex parte modification of a protection order:

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(7) Remove and exclude the defendant from the residence of the plaintiff, regardless of ownership of the residence.

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(c) The court may grant any of the following relief in a final protection order or a modification of a protection order after notice and a hearing, whether or not the defendant appears:

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(4) When the defendant has a duty to support the plaintiff or any children living in the residence or household and the defendant is the sole owner or lessee, grant to the plaintiff possession of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff, or both, or by consent agreement allowing the defendant to provide suitable alternate housing.

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**Voter registration; confidentiality**

ALA. CODE 1975 § 17-4-33

(a) The State of Alabama shall provide, through the Secretary of State, a nondiscriminatory, single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered by the Secretary of State, with advice from the Voter Registration Advisory Board and the President of the Alabama Probate Judges Association, which contains the name and registration information of every legally registered voter in the state...

(b) The Secretary of State, or judge of probate, or absentee election manager, or municipal clerk, or registrar shall include the name and omit the residential and mailing address of a registered voter on any generally available list of registered voters, except for those lists provided to federal and state agencies, upon the written signed affidavit of the registered voter to the board of registrars of the county in which the individual is registered or intends to register, affirming either of the following:

(1) That the registered voter, or a minor who is in the legal custody of the registered voter, is or has been the victim of domestic violence as provided in Article 7, commencing with Section 13A-6-130, of Chapter 6 of Title 13A.

(2) That a domestic violence order is or has been issued by a judge or magistrate pursuant to the Domestic Violence Protection Order Enforcement Act, to restrain access to the registered voter or a minor who is in the legal custody of the registered voter.

ALA. CODE 1975 § 11-46-36

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(b) Following each election, the municipal clerk shall make a copy of that portion of the poll list to be made a public record and shall maintain the original in his or her office. The clerk shall redact any information required to be redacted pursuant to Section 17-4-33 from the copy to be made a public record. This subsection shall not affect poll lists used at local precincts.

ALA. CODE 1975 § 17-9-15

After the close of the polls in all primary, special, general, and municipal elections held in the state, the records and forms produced at the polling places shall be returned as follows:

(1) The list of registered voters, the affirmations of provisional voters, the statements of election officials challenging provisional voters, and the voter reidentification forms shall be sealed in an envelope addressed to the board of registrars and the inspectors and any poll watchers present shall sign across the seal. The board of registrars shall hold the list of registered voters while using it to update their voter histories in accordance with Article 2 of Chapter 4. A copy of the list of registered voters shall be made a public record after the information specified

in subdivision (1) of subsection (b) of Section 17-4-33 has been redacted by the board of registrars. The original and copies of the list shall then be returned to the city clerk in municipal elections and the judge of probate in all other elections.

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ALA. CODE 1975 § 17-11-5

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(c)(2) The absentee election manager shall redact any information required to be redacted pursuant to Section 17-4-33 from any copy of an absentee voter list to be posted or otherwise made a public record. This subdivision shall not affect poll lists used at local precincts.

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# ALASKA

Alaska has enacted the following law regarding survivors' housing rights:

- Definition of “domestic violence” includes cruelty to animals. ALASKA STAT. § 18.66.990(3)(I).
- Notification to victims of domestic violence. ALASKA STAT. § 18.65.520.
- Protective orders for victims of domestic violence. ALASKA STAT. § 18.66.100.
- Fees for police protection services may not be imposed on property owners for responses to calls that involve domestic violence. ALASKA STAT. § 29.35.125.

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## Definitions

ALASKA STAT. § 18.66.990(3)

*(Subsection (3)(I) effective January 17, 2017)*

In this chapter,

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(3) “domestic violence” and “crime involving domestic violence” mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:

- (A) a crime against the person under AS 11.41;
- (B) burglary under AS 11.46.300--11.46.310;
- (C) criminal trespass under AS 11.46.320--11.46.330;
- (D) arson or criminally negligent burning under AS 11.46.400--11.46.430;
- (E) criminal mischief under AS 11.46.475--11.46.486;
- (F) terrorist threatening under AS 11.56.807 or 11.56.810;
- (G) violating a protective order under AS 11.56.740(a)(1);
- (H) harassment under AS 11.61.120(a)(2)--(4); or
- (I) cruelty to animals under AS 11.61.140(a)(5) if the animal is a pet;

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**Notification to victims of domestic violence**

ALASKA STAT. § 18.65.520

(a) A peace officer investigating a crime involving domestic violence shall orally and in writing inform the victim of the rights of victims of domestic violence and the services available to them. The notice must be in substantially the following form:

If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency protective order.

You may also request the officer to assist you in obtaining your essential personal belongings and locating and taking you to a safe place, including a designated meeting place or shelter, the residence of a household member or friend, or a similar place of safety.

In some places in Alaska there are organizations that provide aid and shelter to victims of domestic violence. The nearest organization is located at \_\_\_\_\_

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You also have the right to file a petition in court requesting a protective order that may include any of the following provisions:

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(2) prohibit your abuser from stalking, harassing, telephoning, contacting, or otherwise communicating with you, directly or indirectly;

(3) remove your abuser from your residence;

(4) order your abuser to stay away from your residence, school, place of employment, or any other specified place frequented by you or another designated household member;

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(8) request a peace officer to accompany you to your residence to ensure your safe possession of the residence, vehicle, or other items, or to ensure your safe removal of personal items from the residence;

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(13) require your abuser to reimburse you for your expenses caused by domestic violence, including medical bills, or for your costs in getting a protective order;

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**Protective orders**

ALASKA STAT. § 18.66.100

(a) A person who is or has been a victim of a crime involving domestic violence may file a petition in the district or superior court for a protective order against a household member. A parent, guardian, or other representative appointed by the court under this section may file a petition for a protective order on behalf of a minor. The court may appoint a guardian ad litem or attorney to represent the minor. Notwithstanding AS 25.24.310 or this section, the office of public advocacy may not be appointed as a guardian ad litem or attorney for a minor in a petition filed under this section unless the petition has been filed on behalf of the minor.

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(c) A protective order under this section may

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(2) prohibit the respondent from telephoning, contacting, or otherwise communicating directly or indirectly with the petitioner;

(3) remove and exclude the respondent from the residence of the petitioner, regardless of ownership of the residence;

(4) direct the respondent to stay away from the residence, school, or place of employment of the petitioner or any specified place frequented by the petitioner or any designated household member;

...

(8) request a peace officer to accompany the petitioner to the petitioner's residence to ensure that the petitioner

(A) safely obtains possession of the petitioner's residence, vehicle, or personal items; and

(B) is able to safely remove a vehicle or personal items from the petitioner's residence;

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(13) require the respondent to reimburse the petitioner or other person for expenses associated with the domestic violence, including medical expenses, counseling, shelter, and repair or replacement of damaged property;

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**Fees for police protection services – No fees for responses to potential child neglect or potential domestic violence or potential stalking**

ALASKA STAT. § 29.35.125

(a) A municipality may by ordinance impose a fee on the owner of residential property, including multi-family housing, if a member of the municipal police department goes to the property an excessive number of times during a calendar year in response to a call for assistance, a complaint, an emergency, or a potential emergency. The number of responses considered to be excessive and the amount of the fee shall be set out in the ordinance that establishes the fee. The fee may not exceed the actual cost to the municipality for the excessive responses. A fee may not be imposed under this subsection for responses to calls that involve potential child neglect, potential domestic violence, as defined in AS 18.66.990, or potential stalking under AS 11.41.260 or 11.41.270.

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# ARIZONA

Arizona has enacted the following laws regarding survivors' housing rights:

- Tenant's right to call a peace officer or other emergency assistance. ARIZ. REV. STAT. ANN. §§ 33-1315, 33-1414.
- Early lease termination. ARIZ. REV. STAT. ANN. § 33-1318.
- Lock changes. ARIZ. REV. STAT. ANN. § 33-1318.
- Address confidentiality program. ARIZ. REV. STAT. ANN. §§ 41-161 - 41-169.
- County Recorder Confidentiality. ARIZ. REV. STAT. ANN. § 11-483.
- County Assessor & Treasurer Confidentiality; Confidential Motor Vehicle Registration. ARIZ. REV. STAT. ANN. § 11-484.
- Confidential Voter Registration. ARIZ. REV. STAT. ANN. § 16-153.

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## **Tenant's right to call for peace officer shall not be waived in rental agreement**

ARIZ. REV. STAT. ANN. § 33-1315 (Arizona Residential Landlord and Tenant Act)

A. A rental agreement shall not provide that the tenant does any of the following:

...

4. Agrees to waive or limit the tenant's right to summon or any other person's right to summon a peace officer or other emergency assistance in response to an emergency.

5. Agrees to payment of monetary penalties or otherwise penalizes the tenant for the tenant summoning or for any other person summoning a peace officer or other emergency assistance in response to an emergency.

B. A provision that is prohibited by subsection A of this section and that is included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by the landlord to be prohibited, the tenant may recover actual damages sustained by the tenant and not more than two months' periodic rent.

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**Prohibited provisions in rental agreements**

ARIZ. REV. STAT. ANN. § 33-1414 (Arizona Mobile Home Parks Residential Landlord and Tenant Act)

A. A rental agreement shall not provide that the tenant agrees to:

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6. Waive or limit the tenant’s right to summon or any other person’s right to summon a peace officer or other emergency assistance in response to an emergency.

7. Payment of monetary penalties or otherwise penalizes the tenant for the tenant summoning or for any other person summoning a peace officer or other emergency assistance in response to an emergency.

B. A provision that is prohibited by subsection A of this section and that is included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known to be prohibited, the tenant may recover actual damages sustained and the rental agreement is voidable by the tenant.

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**Early lease termination and lock changes**

ARIZ. REV. STAT. ANN. § 33-1318

A. A tenant may terminate a rental agreement pursuant to this section if the tenant provides to the landlord written notice pursuant to this section that the tenant is the victim of domestic violence as defined in § 13-3601. The tenant’s rights and obligations under the rental agreement are terminated and the tenant shall vacate the dwelling and avoid liability for future rent and shall not incur early termination penalties or fees if the tenant provides to the landlord a written notice requesting release from the rental agreement with a mutually agreed on release date within the next thirty days, accompanied by any one of the following:

1. A copy of any protective order issued pursuant to § 13-3602 to a tenant who is a victim of domestic violence. A landlord may also request a receipt or signed statement that the order of protection has been submitted to an authorized officer of a court for service.

2. A copy of a written departmental report from a law enforcement agency that states that the tenant notified the law enforcement agency that the tenant was a victim of domestic violence.

B. A landlord may request from the victim the name and address of the person named in an order of protection or a departmental report pursuant to subsection A of this section, in writing, if known by the victim.

C. The tenant may terminate the rental agreement pursuant to this section only if the actions, events or circumstances that resulted in the tenant being a victim of domestic violence as defined in § 13-3601 occurred within the thirty day period immediately preceding the written notice of termination to the landlord, unless waived by the landlord.

D. If the tenant terminates the rental agreement as prescribed by this section and if the tenant is solely or jointly liable on the rental agreement, the tenant is liable only for rent owed or paid through the date of the lease termination plus any previous obligations outstanding on that date. The amount due from the tenant shall be paid to the landlord on or before the date the tenant vacates the dwelling. If the tenant has prepaid rent that would apply for the month in which the lease is terminated, the landlord may retain the prepaid rent and no refund is due to the tenant. If the tenant has paid a security deposit pursuant to § 33-1321, the security deposit shall not be withheld for the early termination of the lease if the tenant meets the requirements prescribed by subsection A of this section, but may be withheld for payment of damages which the landlord has suffered by reason of the tenant's noncompliance with § 33-1341.

E. A tenant who is a victim of domestic violence may require the landlord to install a new lock to the tenant's dwelling if the tenant pays for the cost of installing the new lock. A landlord may comply with this requirement by doing either of the following:

1. Rekeying the lock if the lock is in good working condition.
2. Replacing the entire locking mechanism with a locking mechanism of equal or better quality than the lock being replaced.

F. A landlord who installs a new lock at the tenant's request may retain a copy of the key that opens the new lock. Notwithstanding any provision in the rental agreement, the landlord may refuse to provide a key that opens the new lock to the person named in an order of protection or a departmental report pursuant to subsection A of this section.

G. A landlord shall refuse to provide access to the dwelling to reclaim property to any tenant if the tenant is the person named in an order of protection or a departmental report pursuant to subsection A of this section who has been served with an order of protection naming that tenant as the defendant and the landlord has received a copy of the order of protection, unless a law enforcement officer escorts the tenant into and out of the dwelling.

H. A tenant who terminates a lease pursuant to this section and who is convicted of falsely filing a departmental report or order of protection for domestic violence is liable to the landlord for treble damages for premature termination of the lease.

I. A person named in an order of protection or a departmental report pursuant to subsection A of this section who provokes an early lease termination under this section is deemed to have

interfered with the residential rental agreement between the landlord and tenant regardless of whether the person named in an order of protection or a departmental report pursuant to subsection A of this section is a party to the rental agreement, and the person named in an order of protection or a departmental report pursuant to subsection A of this section may be civilly liable for all economic losses incurred by a landlord for the domestic violence early lease termination. This civil liability includes unpaid rent, early lease termination fees, costs to repair damage to the premises and any reductions or waivers of rent previously granted to the tenant who was the victim of domestic violence.

J. If there are multiple tenants who are parties to a rental agreement that has been terminated under this section, the tenancy for those tenants also terminates. The tenants who are not the victims of domestic violence, excluding the person named in an order of protection or a departmental report pursuant to subsection A of this section that caused the termination of the lease pursuant to this section, may be released from any financial obligations due under the previously existing rental agreement and the remaining tenants may be permitted to enter into a new lease with the landlord if the tenants meet all current application requirements.

K. An emergency order of protection or a protective order that is issued to a resident of a rental property automatically applies to the entire residential rental property in which the tenant has a rental agreement.

L. This section shall not be construed to limit a landlord's right to terminate a lease pursuant to § 33-1368 against the victim for actions unrelated to the act of domestic violence.

M. A landlord is not liable for any actions taken in good faith pursuant to this section.

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**Filing and certification of applications; authorization cards**

ARIZ. REV. STAT. ANN. § 41-163

A. On the recommendation of an application assistant, an individual may apply to the secretary of state to participate in the address confidentiality program. The following individuals may apply to the secretary of state to have an address designated by the secretary of state to serve as the substitute address of the individual and any individuals identified pursuant to subsection C, paragraph 10 of this section:

1. An adult individual.
2. A parent or guardian acting on behalf of a minor if the minor resides with the individual.
3. A guardian acting on behalf of an incapacitated individual.

B. An application assistant shall assist the individual in the preparation of the application. The application shall be dated, signed and verified by the applicant and shall be signed and dated by the application assistant who assisted in the preparation of the application. The signature of the application assistant serves as the recommendation by the application assistant that the applicant have an address designated by the secretary of state to serve as the substitute address of the applicant. A minor or incapacitated individual on whose behalf a parent or guardian completes an application pursuant to the authority set forth in subsection A, paragraph 2 or 3 of this section is considered the applicant, but any statements that are required to be made by the applicant shall be made by the parent or guardian acting on behalf of the minor or incapacitated individual.

C. The application shall be on a form prescribed by the secretary of state and shall contain all of the following:

1. The applicant's name.
2. A statement by the applicant that the applicant is a victim of domestic violence, a sexual offense or stalking and that the applicant fears for the applicant's safety.
3. Evidence that the applicant is a victim of domestic violence, a sexual offense or stalking. This evidence shall include at least one of the following:
  - (a) Law enforcement, court or other state or local government entity or federal agency records or files.
  - (b) Documentation from a domestic violence program or facility, including a battered women's shelter or safe house, if the applicant is alleged to be a victim of domestic violence.
  - (c) Documentation from a sexual assault program if the applicant is alleged to be a victim of a sexual offense.
  - (d) Documentation from a religious, medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense or stalking.
4. A statement by the applicant that disclosure of the applicant's actual address would endanger the applicant's safety.
5. A statement by the applicant that the applicant has confidentially relocated in the past ninety days or will confidentially relocate in this state.
6. A designation of the secretary of state as an agent for the applicant for purposes of receiving service of process and first class, election, registered and certified mail.

7. The mailing address and telephone number where the applicant can be contacted by the secretary of state.
8. The actual address that the applicant requests not to be disclosed by the secretary of state and that directly relates to the increased risk of domestic violence, a sexual offense or stalking.
9. A statement as to whether there is any existing court order or court action involving the applicant or an individual identified pursuant to paragraph 10 of this subsection related to dissolution of marriage proceedings, child support or the allocation of parental responsibilities or parenting time. The statement shall include the name of the court that issued the order or that has jurisdiction over the action, the case number and the judge assigned to the case.
10. The name of any person who resides with the applicant and who also needs to be a program participant in order to ensure the safety of the applicant and, if the person named in the application is eighteen years of age or older, the consent of the person to be a program participant.
11. A statement by the applicant, under penalty of perjury, that to the best of the applicant's knowledge, the information contained in the application is true.

D. On determining that an application is properly completed, the secretary of state shall certify the applicant and any individual who is identified pursuant to subsection C, paragraph 10 of this section as program participants. On certification, the secretary of state shall issue to the program participant an address confidentiality program authorization card, which shall include the program participant's substitute address. The card remains valid while the program participant remains certified under the program.

E. Applicants and individuals identified pursuant to subsection C, paragraph 10 of this section are certified for five years following the date of filing unless the certification is withdrawn or canceled before the end of the five-year period. A program participant may withdraw the certification by filing a request for withdrawal acknowledged before a notary public. A certification may be renewed by filing a renewal application with the secretary of state at least thirty days before the expiration of the current certification. The renewal application shall be dated, signed and verified by the applicant. The renewal application shall contain:

1. Any statement or information that is required by subsection C of this section and that has changed from the original application or a prior renewal application.
2. A statement by the applicant, under penalty of perjury, that to the best of the applicant's knowledge, the information contained in the renewal application and a prior application is true.

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**Disclosure of actual address prohibited; violation; classification**

ARIZ. REV. STAT. ANN. § 41-165

A. The secretary of state shall not disclose any address or telephone number of a program participant other than the substitute address designated by the secretary of state, except under any of the following circumstances:

- 1. The information is required by direction of a court order, except that any person to whom a program participant's address or telephone number has been disclosed shall not disclose the address or telephone number to any other person unless permitted to do so by order of the court or as otherwise provided by law.
- 2. The secretary of state grants a request by a state or local government entity pursuant to § 41-167, subsection D.

B. The secretary of state shall provide immediate notification of disclosure to a program participant if disclosure is made pursuant to subsection A of this section.

C. If, at the time of application, an applicant or an individual identified pursuant to § 41-163, subsection C, paragraph 10 is subject to a court order related to dissolution of marriage proceedings, child support or the allocation of parental responsibilities or parenting time, the secretary of state shall notify the court that issued the order of the certification of the program participant in the address confidentiality program and the substitute address designated by the secretary of state. If, at the time of application, an applicant or an individual identified pursuant to § 41-163, subsection C, paragraph 10 is involved in a court action related to dissolution of marriage proceedings, child support or the allocation of parental responsibilities or parenting time, the secretary of state shall notify the court having jurisdiction over the action of the certification of the applicant in the address confidentiality program and the substitute address designated by the secretary of state.

D. A person shall not intentionally or knowingly obtain a program participant's actual address or telephone number from the secretary of state or a state or local government entity knowing that the person is not authorized to obtain the address information.

E. An employee of the secretary of state or a state or local government entity shall not intentionally or knowingly disclose a program participant's actual address or telephone number unless the disclosure is permissible by law. This subsection only applies if an employee obtains a program participant's actual address or telephone number during the course of the employee's official duties and, at the time of disclosure, the employee has specific knowledge that the actual address or telephone number disclosed belongs to a program participant.

F. Any person who intentionally or knowingly obtains or discloses information in violation of this section is guilty of a class 1 misdemeanor.

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**Records maintained by county recorder; confidentiality; definitions**

ARIZ. REV. STAT. ANN. § 11-483

A. Notwithstanding any other provision of this article, in any county an eligible person may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and may request the county recorder to prohibit access to that person's residential address and telephone number contained in instruments or writings recorded by the county recorder.

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.
2. The full legal description and parcel number of the person's property.
3. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall instead attach a copy of the order of protection or injunction against harassment or an eligible person who is a participant in the address confidentiality program shall instead attach a copy of the participant's current and valid address confidentiality program authorization card issued pursuant to § 41-163 and a statement of certification provided by the secretary of state's office.
4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that restricting access pursuant to this section will serve to reduce the danger.
5. The document locator number and recording date of each instrument for which the person requests access restriction pursuant to this section.
6. A copy of pages from each instrument that includes the document locator number and the person's full legal name and residential address or full legal name and telephone number.

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O. For the purposes of this section:

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4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the department of child safety who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, person who is a participant in the address confidentiality program pursuant to title 41, chapter 1, article 3 or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

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**Records maintained by county assessor and county treasurer; redaction; definitions**

ARIZ. REV. STAT. ANN. § 11-484

A. Notwithstanding any other provision of this article, in any county an eligible person may request that the general public be prohibited from accessing that person's residential address and telephone number that are contained in instruments, writings and information maintained by the county assessor and the county treasurer.

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.
2. The full legal description and parcel number of the person's property.
3. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall attach a copy of the order of protection or injunction against harassment or an eligible person who is a participant in the address confidentiality program shall instead attach a copy of the participant's current and valid address confidentiality program authorization card issued pursuant to § 41-163 and a statement of certification provided by the secretary of state's office.

4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that redacting the residential address and telephone number will serve to reduce the danger.

C. If an eligible person is also requesting pursuant to § 11-483 that the general public be prohibited from accessing records maintained by the county recorder, the eligible person may combine the request pursuant to subsection B of this section with the request pursuant to § 11-483 by filing one affidavit. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and § 11-483.

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K. For the purposes of this section:

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4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the department of child safety who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, person who is a participant in the address confidentiality program pursuant to title 41, chapter 1, article 3, or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

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**Voter registration; confidentiality; definitions**

ARIZ. REV. STAT. ANN. § 16-153

A. Eligible persons, and any other registered voter who resides at the same residence address as the eligible person, may request that the general public be prohibited from accessing the residential address, telephone number and voting precinct number contained in their voter registration record.

B. Eligible persons may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties and an organization of peace officers:

1. The person's full legal name, residential address and date of birth.

2. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall instead attach a copy of the order of protection or injunction against harassment.

3. The reasons for reasonably believing that the person's life or safety or that of another person is in danger and that sealing the residential address, telephone number and voting precinct number of the person's voting record will serve to reduce the danger.

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J. On request by a person who is protected under an order of protection or injunction against harassment and presentation of an order of protection issued pursuant to § 13-3602, an injunction against harassment issued pursuant to § 12-1809 or an order of protection or injunction against harassment issued by a court in another state or a program participant in the address confidentiality program pursuant to title 41, chapter 1, article 3, the county recorder shall seal the voter registration record of the person who is protected and, on request, any other registered voter who resides at the residence address of the protected person. The record shall be sealed no later than one hundred twenty days from the date of receipt of the court order. The information in the registration shall not be disclosed and is not a public record.

K. For the purposes of this section:

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4. "Eligible person" means a former public official, peace officer, spouse or minor child of a deceased peace officer, border patrol agent, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the department of child safety who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

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# ARKANSAS

Arkansas has enacted the following law regarding survivors' housing rights:

- Protection for victims of domestic violence. ARK. CODE ANN. § 18-16-112.
- Address confidentiality program. ARK. CODE ANN. § 27-16-811.

This law includes provisions for:

1. protection against housing discrimination (protection from retaliation);
2. lock changes;
3. barring the perpetrator from the property;
4. evicting the perpetrator;
5. liability of the perpetrator for damages;
6. immunity from liability for a landlord acting in good faith; and
7. protection of the tenant's right to call for law enforcement assistance.

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## **Protection for victims of domestic abuse**

ARK. CODE ANN. § 18-16-112

(a) As used in this section:

(1) "Documented incident of domestic abuse" means evidence of domestic abuse contained in an order of a court of competent jurisdiction;

(2) "Domestic abuse" means:

(A) The infliction of physical injury or the creation of a reasonable fear that physical injury or harm will be inflicted upon a member of a household by a member or former member of the household; or

(B) The commission of a sex crime or act of stalking upon a member of a household;

(3) "Domestic abuse offender" means a person identified in a documented incident of domestic abuse as performing any act of domestic abuse;

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(5) "Stalking" means following or loitering near a person with the purpose of annoying, harassing, or committing an assault or battery against the person; and

(6) “Victim of domestic abuse” means a person or a member of the person's household who is identified in a documented incident of domestic abuse within:

(A) The immediately preceding sixty (60) days; or

(B) Sixty (60) days of the termination of a residential tenancy by the person, a member of the person's household, or landlord because of domestic abuse.

(b) If a residential tenant, an applicant for a residential tenancy, or a member of the tenant or applicant's household is a victim of domestic abuse as evidenced by a documented incident of domestic abuse:

(1) With respect to the victim of domestic abuse, a landlord shall not terminate or fail to renew a residential tenancy, refuse to enter into a residential tenancy, or otherwise retaliate in the leasing of a residence because of the domestic abuse; and

(2)(A) At the residential tenant's expense and with the landlord's prior consent, a landlord or a residential tenant other than a domestic abuse offender may change the locks to the residential tenant's residence.

(B) The landlord or residential tenant shall furnish the other a copy of the new key to the residential tenant's residence immediately after changing the locks or as soon after changing the locks as possible if either the landlord or residential tenant is unavailable.

(c) Notwithstanding a conflicting provision in a domestic abuse offender's residential tenancy agreement, if a domestic abuse offender is under a court order to stay away from a co-tenant residing in the domestic abuser's offender's residence or the co-tenant's residence:

(1) The domestic abuse offender under the court order may access either residence only to the extent permitted by the court order or another court order;

(2) A landlord may refuse access by a domestic abuse offender to the residence of a victim of domestic abuse unless the domestic offender is permitted access by court order; and

(3) A landlord may pursue all available legal remedies against the domestic abuse offender including, without limitation, an action:

(A) To terminate the residential tenancy agreement of the domestic abuse offender;

(B) To evict the domestic abuse offender whether or not a residential tenancy agreement between the landlord and domestic abuse offender exists; and

(C) For damages against the domestic abuse offender:

- (i) For any unpaid rent owed by the domestic abuse offender; and
- (ii) Resulting from a documented incident of domestic abuse.

(d) A landlord is entitled to a court order terminating the residential tenancy agreement of a person or evicting a person, or both, under subdivision (c)(3)(A) or (B) of this section upon proof that the person is a domestic abuse offender under this section.

(e) A landlord is immune from civil liability if the landlord in good faith:

- (1) Changes the locks under subdivision (b)(2) of this section; or
- (2) Acts in accordance with a court order under subsection (c) of this section.

(f) A residential tenant may not waive in a residential tenancy the residential tenant's right to request law enforcement assistance or other emergency assistance.

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**Address confidentiality program**

ARK. CODE ANN. § 27-16-811

(a) As used in this section, "licensee" means a person who is applying for, renewing, or requesting a change to his or her driver's license issued or to be issued under this chapter and who is:

- (1) The victim of domestic violence; or
- (2) The dependent of a victim of domestic violence.

(b) A licensee shall qualify for the exception for disclosing a residence address under this section if he or she:

- (1) Presents a valid order of protection issued under the Domestic Abuse Act of 1991, § 9-15-101 et seq.;
- (2) Presents an affidavit in which the licensee states that he or she:
  - (A) Is a victim of domestic violence, or is the dependent of a victim of domestic violence; or
  - (B) Fears further acts of domestic violence, or resides with the victim of domestic violence and fears further acts of domestic violence against his or her parent,

custodian, or guardian; and

(3) Agrees to the terms of participation in the address confidentiality program.

(c)(1) A licensee who participates in the address confidentiality program under this section shall be issued a driver's license that discloses a post office box address in lieu of his or her residence address.

(2)(A) The licensee shall provide to the Department of Finance and Administration his or her residence address, which shall be kept on file with the department for as long as the licensee holds a license that displays a post office box in lieu of a residence address.

(B) The licensee shall update his or her residence address and post office box address with the department if a change occurs.

(3)(A) The department shall only disclose the residence address to a person who:

(i) Presents a compelling reason for access to the residence address in an affidavit;

(ii) Presents valid identification to the department; and

(iii) Is not a person against whom the order of protection has been entered or who is related by blood or marriage to the person against whom the order of protection has been entered.

(B) The department shall maintain a record of each and every person to whom the department discloses the residence address.

(C) The department shall provide written notice to the licensee that advises him or her of a disclosure to a third party.

(D)(i) The department shall accept complaints from the licensee if the licensee objects to the disclosure to a third party.

(ii) The department shall refer a complaint to the prosecuting attorney for prosecution for perjury or another offense relating to judicial or other official proceedings under § 5-53-101 et seq. related to a false compelling reason stated in an affidavit under subdivision (c)(3)(A)(i) of this section.

(d) The Director of the Department of Finance and Administration shall promulgate rules and forms to administer the address confidentiality program under this section.

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# CALIFORNIA

California has enacted the following laws regarding survivors' housing rights:

- Lock changes. CAL. CIV. CODE §§ 1941.5, 1941.6.
- Early lease termination by the victim. CAL. CIV. CODE § 1946.7.
- Unlawful detainer defense. CAL. CIV. PROC. CODE § 1161.3.
- A landlord shall not terminate a tenancy based upon an act against a tenant that constitutes domestic violence. CAL. CIV. PROC. CODE § 1161.3.
- A court may issue an order excluding a party from the petitioner's dwelling, regardless of which party holds title or is the lessee of the dwelling. CAL. FAM. CODE § 6321.
- Address confidentiality program. CAL. GOV'T CODE §§ 6205-6211.
- Local agencies cannot require a landlord to terminate a tenancy based on the number of calls made by a person to the emergency telephone system reporting acts of domestic violence. CAL. GOV'T CODE § 53165.
- Public housing reports on terminations of tenancies of victims of domestic violence in housing authority units, and terminations of Section 8 vouchers of victims of domestic violence. CAL. HEALTH & SAFETY CODE § 34328.1.
- Eligibility for homeless assistance due to domestic violence. CAL. WELF. & INST. § 11450(f)(2)(E)(iii)-(v).

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## **Lock changes where victim does not live with perpetrator**

### CAL. CIV. CODE § 1941.5

(a) This section shall apply if a person who is restrained from contact with the protected tenant under a court order or is named in a police report is not a tenant of the same dwelling unit as the protected tenant.

(b) A landlord shall change the locks of a protected tenant's dwelling unit upon written request of the protected tenant not later than 24 hours after the protected tenant gives the landlord a copy of a court order or police report, and shall give the protected tenant a key to the new locks.

(c) (1) If a landlord fails to change the locks within 24 hours, the protected tenant may change the locks without the landlord’s permission, notwithstanding any provision in the lease to the contrary.

(2) If the protected tenant changes the locks pursuant to this subdivision, the protected tenant shall do all of the following:

(A) Change the locks in a workmanlike manner with locks of similar or better quality than the original lock.

(B) Notify the landlord within 24 hours that the locks have been changed.

(C) Provide the landlord with a key by any reasonable method agreed upon by the landlord and protected tenant.

(3) This subdivision shall apply to leases executed on or after the date the act that added this section takes effect.

(d) For the purposes of this section, the following definitions shall apply:

(1) “Court order” means a court order lawfully issued within the last 180 days pursuant to Section 527.6 of the Code of Civil Procedure, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 of the Welfare and Institutions Code.

(2) “Locks” means any exterior lock that provides access to the dwelling.

(3) “Police report” means a written report, written within the last 180 days, by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity, stating that the protected tenant or a household member has filed a report alleging that the protected tenant or the household member is a victim of domestic violence, sexual assault, or stalking.

(4) “Protected tenant” means a tenant who has obtained a court order or has a copy of a police report.

(5) “Tenant” means tenant, subtenant, lessee, or sublessee.

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**Lock changes where victim lives with perpetrator**

CAL. CIV. CODE § 1941.6

(a) This section shall apply if a person who is restrained from contact with a protected tenant under a court order is a tenant of the same dwelling unit as the protected tenant.

(b) A landlord shall change the locks of a protected tenant’s dwelling unit upon written request of the protected tenant not later than 24 hours after the protected tenant gives the landlord a copy of a court order that excludes from the dwelling unit the restrained person referred to in subdivision (a). The landlord shall give the protected tenant a key to the new locks.

(c) (1) If a landlord fails to change the locks within 24 hours, the protected tenant may change the locks without the landlord’s permission, notwithstanding any provision in the lease to the contrary.

(2) If the protected tenant changes the locks pursuant to this subdivision, the protected tenant shall do all of the following:

(A) Change the locks in a workmanlike manner with locks of similar or better quality than the original lock.

(B) Notify the landlord within 24 hours that the locks have been changed.

(C) Provide the landlord with a key by any reasonable method agreed upon by the landlord and protected tenant.

(3) This subdivision shall apply to leases executed on or after the date the act that added this section takes effect.

(d) Notwithstanding Section 789.3, if the locks are changed pursuant to this section, the landlord is not liable to a person excluded from the dwelling unit pursuant to this section.

(e) A person who has been excluded from a dwelling unit under this section remains liable under the lease with all other tenants of the dwelling unit for rent as provided in the lease.

(f) For the purposes of this section, the following definitions shall apply:

(1) “Court order” means a court order lawfully issued within the last 180 days pursuant to Section 527.6 of the Code of Civil Procedure, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 of the Welfare and Institutions Code.

(2) “Locks” means any exterior lock that provides access to the dwelling.

(3) "Protected tenant" means a tenant who has obtained a court order.

(4) "Tenant" means tenant, subtenant, lessee, or sublessee.

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**Early lease termination by victim**

CAL. CIV. CODE § 1946.7

(a) A tenant may notify the landlord that he or she or a household member was a victim of an act that constitutes an act of domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Sections 261, 261.5, 262, 286, 288a, or 289 of the Penal Code, stalking as defined in Section 1708.7, human trafficking as defined in Section 236.1 of the Penal Code, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, and that the tenant intends to terminate the tenancy.

(b) A notice to terminate a tenancy under this section shall be in writing, with one of the following attached to the notice:

(1) A copy of a temporary restraining order, emergency protective order, or protective order lawfully issued pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2 of the Penal Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from further domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(2) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity stating that the tenant or household member has filed a report alleging that he or she or the household member is a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(3) (A) Documentation from a qualified third party based on information received by that third party while acting in his or her professional capacity to indicate that the tenant or household member is seeking assistance for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse.

(B) The documentation shall contain, in substantially the same form, the following:

**Tenant Statement and Qualified Third Party Statement under Civil Code Section 1946.7**

Part I. Statement By Tenant

I, [insert name of tenant], state as follows:

I, or a member of my household, have been a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse.]

The most recent incident(s) happened on or about:

[insert date or dates.]

The incident(s) was/were committed by the following person(s), with these physical description(s), if known and safe to provide:

[if known and safe to provide, insert name(s) and physical description(s).]

(signature of tenant) (date)

Part II. Qualified Third Party Statement

I, [insert name of qualified third party], state as follows:

My business address and phone number are:

[insert business address and phone number.]

Check and complete one of the following:

\_\_\_ I meet the requirements for a sexual assault counselor provided in Section 1035.2 of the Evidence Code and I am either engaged in an office, hospital, institution, or center commonly known as a rape crisis center described in that section or employed by an organization providing the programs specified in Section 13835.2 of the Penal Code.

\_\_\_ I meet the requirements for a domestic violence counselor provided in Section 1037.1 of the Evidence Code and I am employed, whether financially compensated or not, by a domestic violence victim service organization, as defined in that section.

\_\_\_ I meet the requirements for a human trafficking caseworker provided in Section 1038.2 of the Evidence Code and I am employed, whether financially compensated or not, by an organization that provides programs specified in Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of the Penal Code.

\_\_\_ I am licensed by the State of California as a:

[insert one of the following: physician and surgeon, osteopathic physician and surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.] and I am licensed by, and my license number is:

[insert name of state licensing entity and license number.]

The person who signed the Statement By Tenant above stated to me that he or she, or a member of his or her household, is a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse.]

The person further stated to me the incident(s) occurred on or about the date(s) stated above.

I understand that the person who made the Statement By Tenant may use this document as a basis for terminating a lease with the person's landlord.

(signature of qualified third party) (date)

(C) The documentation may be signed by a person who meets the requirements for a sexual assault counselor, domestic violence counselor, or a human trafficking caseworker only if the documentation displays the letterhead of the office, hospital, institution, center, or organization, as appropriate, that engages or employs, whether financially compensated or not, this counselor or caseworker.

(c) The notice to terminate the tenancy shall be given within 180 days of the date that any order described in paragraph (1) of subdivision (b) was issued, within 180 days of the date that any written report described in paragraph (2) of subdivision (b) was made, or within the time period described in Section 1946.

(d) If notice to terminate the tenancy is provided to the landlord under this section, the tenant shall be responsible for payment of rent for no more than 14 calendar days following the giving of the notice, or for any shorter appropriate period as described in Section 1946 or the lease or rental agreement. The tenant shall be released from any rent payment obligation under the lease or rental agreement without penalty. If the premises are relet to another party prior to the end of the obligation to pay rent, the rent owed under this subdivision shall be prorated. Existing law governing the security deposit shall apply.

(e) Nothing in this section relieves a tenant, other than the tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult and members of that tenant's household, from their obligations under the lease or rental agreement.

(f) (1) "Household member," as used in this section, means a member of the tenant's family who lives in the same household as the tenant.

(2) "Qualified third party," as used in this section, means a health practitioner, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, or a human trafficking caseworker, as defined in Section 1038.2 of the Evidence Code.

(3) "Health practitioner," as used in this section, means a physician and surgeon, osteopathic physician and surgeon, psychiatrist, psychologist, registered nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.

(h) (1) A landlord shall not disclose any information provided by a tenant under this section to a third party unless the disclosure satisfies any one of the following:

(A) The tenant consents in writing to the disclosure.

(B) The disclosure is required by law or order of the court.

(2) A landlord's communication to a qualified third party who provides documentation under paragraph (3) of subdivision (b) to verify the contents of that documentation is not disclosure for purposes of this subdivision.

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**Eviction Defense**

CAL. CIV. PROC. CODE § 1161.3

(a) Except as provided in subdivision (b), a landlord shall not terminate a tenancy or fail to renew a tenancy based upon an act or acts against a tenant or a tenant's household member that constitute domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 1219, stalking as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, human trafficking as defined in Section 236.1 of the Penal Code, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, if both of the following apply:

(1) The act or acts of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult have been documented by one of the following:

(A) A temporary restraining order, emergency protective order, or protective order lawfully issued within the last 180 days pursuant to Section 527.6, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(B) A copy of a written report, written within the last 180 days, by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity, stating that the tenant or household member has filed a report alleging that he or she or the household member is a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult.

(2) The person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, human

trafficking, or abuse of an elder or dependent adult is not a tenant of the same dwelling unit as the tenant or household member.

(b) A landlord may terminate or decline to renew a tenancy after the tenant has availed himself or herself of the protections afforded by subdivision (a) if both of the following apply:

(1) Either of the following:

(A) The tenant allows the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult to visit the property.

(B) The landlord reasonably believes that the presence of the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult poses a physical threat to other tenants, guests, invitees, or licensees, or to a tenant's right to quiet possession pursuant to Section 1927 of the Civil Code.

(2) The landlord previously gave at least three days' notice to the tenant to correct a violation of paragraph (1).

(c) Notwithstanding any provision in the lease to the contrary, the landlord shall not be liable to any other tenants for any action that arises due to the landlord's compliance with this section.

(d) For the purposes of this section, "tenant" means tenant, subtenant, lessee, or sublessee.

(e) The Judicial Council shall, on or before January 1, 2014, develop a new form or revise an existing form that may be used by a party to assert in the responsive pleading the grounds set forth in this section as an affirmative defense to an unlawful detainer action.

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**Ex parte order excluding party from dwelling**

CAL. FAM. CODE § 6321

(a) The court may issue an ex parte order excluding a party from the family dwelling, the dwelling of the other party, the common dwelling of both parties, or the dwelling of the person who has care, custody, and control of a child to be protected from domestic violence for the period of time and on the conditions the court determines, regardless of which party holds legal or equitable title or is the lessee of the dwelling.

(b) The court may issue an order under subdivision (a) only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(3) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

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**Application to have address designated by Secretary of State serve as person’s address**

CAL. GOV’T CODE § 6206

(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, who is domiciled in California, may apply to the Secretary of State to have an address designated by the Secretary of State serve as the person’s address or the address of the minor or incapacitated person. An application shall be completed in person at a community-based victims’ assistance program or a community-based assistance program that serves victims of elder or dependent adult abuse pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code). The application process shall include a requirement that the applicant shall meet with a victims’ assistance counselor and receive orientation information about the program. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains all of the following:

(1) A sworn statement by the applicant that the applicant has good reason to believe both of the following:

(A) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, or stalking.

(B) That the applicant fears for his or her safety or his or her children’s safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(2) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or sexual assault, the application may be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Documentation from a domestic violence or sexual assault program if the person is alleged to be a victim of domestic violence or sexual assault.

(C) Documentation from a legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged domestic violence or sexual assault.

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence or sexual assault.

(3) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of stalking, the application may be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Documentation from a legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged stalking.

(C) Any other evidence that supports the sworn statement, such as a sworn statement from any other individual with knowledge of the circumstances that provide the basis for the claim, or physical evidence of the act or acts of stalking.

(4) The name and last known address of the applicant's minor child or children, the name and last known address of the other parent or parents of the minor child or children of the applicant, and all court orders related to the minor child or children of the applicant, and legal counsel of record in those cases.

(5) A designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail.

(A) Service on the Secretary of State of any summons, writ, notice, demand, or process shall be made by delivering to the address confidentiality program personnel of the Office of the Secretary of State two copies of the summons, writ, notice, demand, or process.

(B) If a summons, writ, notice, demand, or process is served on the Secretary of State, the Secretary of State shall immediately cause a copy to be forwarded to the program participant at the address shown on the records of the address confidentiality program so that the summons, writ, notice, demand, or process is received by the program participant within three days of the Secretary of State's having received it.

(C) The Secretary of State shall keep a record of all summonses, writs, notices, demands, and processes served upon the Secretary of State under this section and shall record the time of that service and the Secretary of State's action.

(D) The office of the Secretary of State and any agent or person employed by the Secretary of State shall be held harmless from any liability in any action brought by any person injured or harmed as a result of the handling of first-class mail on behalf of program participants.

(6) The mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State.

(7) The address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, or stalking.

(8) The signature of the applicant and of any individual or representative of any office designated in writing under Section 6208.5 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the Secretary of State.

(c) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall by rule establish a renewal procedure. A minor program participant, who reaches 18 years of age during his or her enrollment, may renew as an adult following the renewal procedures established by the Secretary of State.

(d) Upon certification, the Secretary of State shall, within 10 days, notify the other parent or parents identified pursuant to paragraph (4) of subdivision (a) of the designation of the Secretary of State as agent for purposes of service of process and, unless there is a court order prohibiting contact, the address designated by the Secretary of State for the program participant. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record, if provided to the Secretary of State by the applicant.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor. A notice shall be printed in bold type and in a conspicuous location on the face of the application informing the applicant of the penalties under this subdivision.

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**Disclosure of participant's address or name change**

CAL. GOV'T CODE § 6208

The Secretary of State may not make a program participant's address, other than the address designated by the Secretary of State, or a program participant's name change available for inspection or copying, except under any of the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency.
- (b) If directed by a court order, to a person identified in the order.
- (c) If certification has been terminated as a result of paragraph (2) of subdivision (b) of Section 6206.7.

**Posting or trading on Internet of participant's address, telephone number, or image; remedies of participant**

CAL. GOV'T CODE § 6208.1

(a)(1) No person, business, or association shall knowingly and intentionally publicly post or publicly display on the Internet the home address, home telephone number, or image of a program participant or other individuals residing at the same home address with the intent to do either of the following:

(A) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.

(B) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety.

(2) A participant whose home address, home telephone number, or image is made public as a result of a violation of paragraph (1) may do either or both of the following:

(A) Bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(B) Bring an action for money damages in any court of competent jurisdiction. In addition to any other legal rights or remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four

thousand dollars (\$4,000).

(b)(1) No person, business, or association shall knowingly and intentionally publicly post or publicly display on the Internet the home address or home telephone number of a participant if that individual has made a written demand of that person, business, or association to not disclose his or her home address or home telephone number. A demand made under this paragraph shall include a sworn statement declaring that the person is subject to the protection of this section and describing a reasonable fear for the safety of that individual or of any person residing at the individual's home address, based on a violation of subdivision (a). A written demand made under this paragraph shall be effective for four years, regardless of whether or not the individual's program participation has expired prior to the end of the four-year period.

(2) A participant whose home address or home telephone number is made public as a result of a failure to honor a demand made pursuant to paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(3) This subdivision shall not apply to a person or entity defined in Section 1070 of the Evidence Code.

(c)(1) No person, business, or association shall solicit, sell, or trade on the Internet the home address, home telephone number, or image of a participant with the intent to do either of the following:

(A) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.

(B) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety.

(2) A participant whose home address, home telephone number, or image is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. In addition to any other legal rights and remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four thousand dollars (\$4,000).

(d) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause bodily harm that is likely to occur or threatens to cause bodily harm to a participant or any person residing at the same home address.

(e) Nothing in this section is intended to preclude prosecution under any other provision of law.

(f) For the purposes of this section, the following terms are defined as follows:

(1) "Image" includes, but is not limited to, any photograph, video, sketch, or computer-generated image that provides a means to visually identify the person depicted.

(2) "Program participant" means a person certified as a program participant in the manner described in Section 6206.

(3) "Publicly post" or "publicly display" means to communicate or otherwise make available to the general public.

**Posting on Internet of participant's address, telephone number, or personal identifying information; misdemeanor**

CAL. GOV'T CODE § 6208.2

(a)(1) No person shall post on the Internet, with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against the participant or the program participant's family members who are participating in the program, the home address, the telephone number, or personal identifying information of a program participant or the program participant's family members who are participating in the program.

(2) A violation of this subdivision is a misdemeanor punishable by a fine of up to two thousand five hundred dollars (\$2,500), or imprisonment of up to six months in a county jail, or by both that fine and imprisonment.

(3) A violation of this subdivision that leads to the bodily injury of the program participant, or of any of the program participant's family members who are participating in the program, is a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000), or imprisonment of up to one year in a county jail, or by both that fine and imprisonment.

(b) Nothing in this section shall preclude prosecution under any other provision of law.

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**Local agencies cannot require a landlord to terminate a tenancy based on the number of calls made by a person to the emergency telephone system reporting domestic violence.**

CAL. GOV'T CODE § 53165

(a) A local agency shall not require a landlord to terminate a tenancy or fail to renew a tenancy based upon an act or acts against a tenant or a tenant's household member that constitute domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 1219 of the Code of Civil Procedure, stalking as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, human trafficking as defined in Section 236.1 of the Penal Code, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, provided that the requirements of subdivision (a) of Section 1161.3 of the Code of Civil Procedure are met.

(b) A local agency shall not require a landlord to terminate a tenancy or fail to renew a tenancy based upon the number of calls made by any person to the emergency telephone system relating to the tenant or a member of the tenant's household being a victim of an act or acts that constitute domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 1219 of the Code of Civil Procedure, stalking as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, human trafficking as defined in Section 236.1 of the Penal Code, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, provided that the requirements of subdivision (a) of Section 1161.3 of the Code of Civil Procedure are met.

(c) For the purposes of this section, "tenant" means tenant, subtenant, lessee, or sublessee.

(d) For purposes of this section, "local agency" means a county, city, whether general law or chartered, city and county, town, housing authority, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency.

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**Public housing reports**

CAL. HEALTH & SAFETY CODE § 34328.1

(a) Every housing authority shall file on the first day of October of each year with the Department of Housing and Community Development a complete report of its activities during the previous fiscal year, with recommendations for needed legislation to carry on properly a program of housing and community development in this state.

(b) The authority shall provide the Department of Housing and Community Development funds as requested by the department to reimburse the department for the cost of processing the report required by this section.

(c) (1) The report shall include data on terminations of tenancies of victims of domestic violence in housing authority units, and terminations of Section 8 vouchers of victims of domestic violence. The data shall be included in all cases where a notice of termination was given, regardless of whether the termination was based in whole or in part on activity related to the domestic violence, and whether the notice resulted in the victim vacating the premises or actual termination of the voucher.

(2) For each termination, the report shall briefly specify steps taken, if any, by the authority to address the situation or assist the victim prior to the termination, and, if known, the subsequent housing obtained by the victim. If no steps were taken, the authority may include an explanation of why none were deemed necessary.

(3) The report shall include data on terminations of all victims of domestic violence, as reported or known to the authority, its employees, or agents, whether or not an arrest was made or any report was filed.

(4) The report may include any other information regarding domestic violence victim terminations deemed relevant by the authority.

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**Eligibility for homeless assistance due to domestic violence**

CAL. WELF. & INST. § 11450(f)(2)(E)(iii)-(v)

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(iii) A family shall be eligible for temporary and permanent homeless assistance when homelessness is a direct result of domestic violence by a spouse, partner, or roommate; physical or mental illness that is medically verified that shall not include a diagnosis of alcoholism, drug addiction, or psychological stress; or, the uninhabitability of the former residence caused by sudden and unusual circumstances beyond the control of the family including natural catastrophe, fire, or condemnation. These circumstances shall be verified by a third-party governmental or private health and human services agency, except that domestic violence may also be verified by a sworn statement by the victim, as provided under Section 11495.25. Homeless assistance payments based on these specific circumstances may not be received more often than once in any 12-month period. In addition, if the domestic violence is verified by a sworn statement by the victim, the homeless assistance payments shall be limited to two periods of not more than 16 consecutive calendar days of temporary assistance and two payments of permanent assistance. A county may require that a recipient of homeless assistance benefits who qualifies under this paragraph for a second time in a 24-month period participate in a homelessness avoidance case plan as a condition of eligibility for homeless assistance benefits. The county welfare department shall immediately inform recipients who verify domestic

violence by a sworn statement pursuant to clause (iii) of the availability of domestic violence counseling and services, and refer those recipients to services upon request.

(iv) If a county requires a recipient who verifies domestic violence by a sworn statement to participate in a homelessness avoidance case plan pursuant to clause (iii), the plan shall include the provision of domestic violence services, if appropriate.

(v) If a recipient seeking homeless assistance based on domestic violence pursuant to clause (iii) has previously received homeless avoidance services based on domestic violence, the county shall review whether services were offered to the recipient and consider what additional services would assist the recipient in leaving the domestic violence situation.

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# SAN FRANCISCO, CALIFORNIA

San Francisco, California has enacted the following laws regarding survivors' housing rights:

- Eviction protection for victims of domestic violence, sexual assault, or stalking.  
S.F., CAL., ADMIN. CODE ch. 37, § 9.

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## **Eviction protection for victims of domestic violence, sexual assault, or stalking**

S.F., CAL., ADMIN. CODE ch. 37, § 9

(a) A landlord shall not endeavor to recover possession of a rental unit unless:

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(3) The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or tenants in the building, the activities are severe, continuing or recurring in nature, and the nature of such nuisance, damage or interference is specifically stated by the landlord in the writing as required by Section 37.9(c).

(3.1) Eviction Protection for Victims of Domestic Violence or Sexual Assault or Stalking:

(A) It shall be a defense to an action for possession of a unit under Subsection 37.9(a)(3) if the court determines that:

(i) The tenant or the tenant's household member is a victim of an act or acts that constitute domestic violence or sexual assault or stalking; and

(ii) The notice to vacate is substantially based upon the act or acts constituting domestic violence or sexual assault or stalking against the tenant or a tenant's household member, including but not limited to an action for possession based on complaints of noise, disturbances, or repeated presence of police.

(B) Evidence Required. In making the determination under Section 37.9(a)(3.1)(A) the court shall consider evidence, which may include but is not limited to:

(i) A copy of a temporary restraining order or emergency protective order issued pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300) or Part 5 (commencing with Section 6400) of the Family Code, Section 136.2 of the Penal Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 of the Welfare and

## SAN FRANCISCO, CALIFORNIA

Institutions Code, that protects the tenant or tenant's household member from further domestic violence, sexual assault, or stalking. And/or,

(ii) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity, stating that the tenant or tenant's household member has filed a report alleging that he or she is a victim of domestic violence, sexual assault, or stalking. And/or

(iii) Other written documentation from a qualified third party of the acts constituting domestic violence or sexual assault or stalking.

(C) Mutual Allegations of Abuse Between Parties. If two or more co-tenants are parties seeking relief under Subsection 37.9(a)(3.1)(A), and each alleges that he or she was a victim of domestic violence or sexual assault or stalking perpetrated by another co-tenant who is also a party, the court may determine whether a tenant acted as the dominant aggressor in the acts constituting a domestic violence or sexual assault or stalking offense. In making the determination, the court shall consider the factors listed in Section 13701(b)(1) of the Penal Code. A tenant who the court determines was the dominant aggressor in the acts constituting a domestic violence or sexual assault or stalking offense is not entitled to relief under Subsection 37.9(a)(3.1)(A).

(D) Limitations on Relief. Unless the tenant or the tenant's household member has obtained a protective order against the alleged abuser to vacate or stay from the unit as a result of acts constituting domestic violence or sexual assault or stalking against the tenant or tenant's household member, the tenant may not obtain relief under Subsection 37.9(a)(3.1) if:

(i) The tenant was granted relief under Subsection 37.9(a)(3.1) in an action for possession of the unit within the previous five years; and

(ii) A subsequent action for possession of the unit has now been filed; and

(iii) The notice to vacate in this subsequent action for possession is substantially based upon continuing acts constituting domestic violence or sexual assault or stalking by the same person alleged to be the abuser in the previous action for possession.

(E) Nothing in this Subsection 37.9(a)(3.1) shall be construed to affect the tenant's liability for delinquent rent or other sums owed to the landlord, or the landlord's remedies in recovering against the tenant for such sums.

(F) The provisions of Subsection 37.9(a)(3.1) are intended for use consistent with Civil Code Section 1946.7.

(3.2) Confidentiality of Information Received from Victims of Domestic Violence or Sexual Assault or Stalking. A landlord shall retain in strictest confidence all information

SAN FRANCISCO, CALIFORNIA

that is received in confidence from a tenant or a tenant's household member who is a victim of domestic violence or sexual assault or stalking, regarding that domestic violence or sexual assault or stalking, except to the extent that such disclosure (A) is necessary to provide for a reasonable accommodation for the victim, or (B) is otherwise required pursuant to applicable federal, state or local law. The victim may authorize limited or general release of any information otherwise deemed confidential under this Subsection 37.9(a)(3.2).

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# COLORADO

Colorado has enacted the following laws regarding survivors' housing rights:

- A tenant cannot waive her right to call for police or other emergency assistance. COLO. REV. STAT. ANN. § 38-12-402.
- Early lease termination. COLO. REV. STAT. ANN. § 38-12-402.
- Housing conditions caused by domestic violence is not misconduct by survivor in the context of a landlord's warranty of habitability. COLO. REV. STAT. ANN. § 38-12-503.
- An unlawful detainer defense where domestic violence was the cause of or resulted in the alleged unlawful detention. COLO. REV. STAT. ANN. § 13-40-104.
- Address confidentiality program. COLO. REV. STAT. ANN. §§ 24-30-2104; 18-9-313.

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## Definitions

### COLO. REV. STAT. ANN. § 38-12-401

As used in this part 4, unless the context otherwise requires:

- (1) "Domestic abuse" shall have the same meaning as provided in section 13-14-101(2), C.R.S.
- (2) "Domestic violence" shall have the same meaning as provided in section 18-6-800.3(1), C.R.S.

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## Protection for victims of domestic violence

### COLO. REV. STAT. ANN. § 38-12-402

(1) A landlord shall not include in a residential rental agreement or lease agreement for housing a provision authorizing the landlord to terminate the agreement or to impose a penalty on a residential tenant for calls made by the residential tenant for peace officer assistance or other emergency assistance in response to a domestic violence or domestic abuse situation. A residential tenant may not waive the residential tenant's right to call for police or other emergency assistance.

(2)(a) If a tenant to a residential rental agreement or lease agreement notifies the landlord in writing that he or she is the victim of domestic violence or domestic abuse and provides to the landlord evidence of domestic violence or domestic abuse in the form of a police report written within the prior sixty days or a valid protection order and the residential tenant seeks to vacate the premises due to fear of imminent danger for self or children because of the domestic violence or domestic abuse, then the residential tenant may terminate the residential rental agreement or

lease agreement and vacate the premises without further obligation except as otherwise provided in paragraph (b) of this subsection (2).

(b) If a tenant to a residential rental agreement or lease agreement terminates the residential rental agreement or lease agreement and vacates the premises pursuant to paragraph (a) of this subsection (2), then the tenant shall be responsible for one month's rent following vacation of the premises, which amount shall be due and payable to the landlord within ninety days after the tenant vacates the premises. The landlord shall not be obligated to refund the security deposit to the tenant until such time as the tenant has paid the one month's rent pursuant to this section. Notwithstanding the provisions of section 38-12-103, the landlord and the tenant to a residential rental agreement or lease agreement may use any amounts owed to the other to offset costs for the one month's rent or the security deposit. The provisions of this paragraph (b) shall apply only if the landlord has experienced and documented damages equal to at least one month's rent as a result of the tenant's early termination of the agreement.

(3) Nothing in this part 4 authorizes the termination of tenancy and eviction of a residential tenant solely because the residential tenant is the victim of domestic violence or domestic abuse.

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**Warranty of habitability**

COLO. REV. STAT. ANN. § 38-12-503

(1) In every rental agreement, the landlord is deemed to warrant that the residential premises is fit for human habitation.

(2) A landlord breaches the warranty of habitability set forth in subsection (1) of this section if:

(a) A residential premises is uninhabitable as described in section 38-12-505 or otherwise unfit for human habitation; and

(b) The residential premises is in a condition that is materially dangerous or hazardous to the tenant's life, health, or safety; and

(c) The landlord has received written notice of the condition described in paragraphs (a) and (b) of this subsection (2) and failed to cure the problem within a reasonable time.

(3) When any condition described in subsection (2) of this section is caused by the misconduct of the tenant, a member of the tenant's household, a guest or invitee of the tenant, or a person under the tenant's direction or control, the condition shall not constitute a breach of the warranty of habitability. It shall not be misconduct by a victim of domestic violence or domestic abuse under this subsection (3) if the condition is the result of domestic violence or domestic abuse and the landlord has been given written notice and evidence of domestic violence or domestic abuse as described in section 38-12-402(2)(a).

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**Unlawful detention defined**

COLO. REV. STAT. ANN. § 13-40-104

(1) Any person is guilty of an unlawful detention of real property in the following cases:

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(d.5) When such tenant or lessee holds over, without the permission of the landlord, contrary to any condition or covenant the violation of which is defined as a substantial violation in section 13-40-107.5, and notice in writing has been duly served upon such tenant or lessee in accordance with section 13-40-107.5;

(e) When such tenant or lessee holds over, without such permission, contrary to any other condition or covenant of the agreement under which such tenant or lessee holds, and three days' notice in writing has been duly served upon such tenant or lessee requiring in the alternative the compliance with such condition or covenant or the delivery of the possession of the premises so held;

(e.5)(I) When a tenant or lessee has previously been served with the notice described in paragraph (e) of this subsection (1) requiring compliance with a condition or covenant of the agreement, and subsequent to that notice holds over, without permission of the tenant or lessee's landlord, contrary to the same condition or covenant.

(II) A tenancy may be terminated at any time pursuant to this paragraph (e.5) on the basis of a subsequent violation. The termination shall be effective three days after service of written notice to quit.

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(4)(a) It shall not constitute an unlawful detention of real property as described in paragraph (d.5), (e), or (e.5) of subsection (1) of this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, C.R.S., or of domestic abuse, as that term is defined in section 13-14-101(2), which domestic violence or domestic abuse was the cause of or resulted in the alleged unlawful detention and which domestic violence or domestic abuse has been documented by the following:

(I) A police report; or

(II) A valid civil or emergency protection order.

(b) A person is not guilty of an unlawful detention of real property pursuant to paragraph (a) of this subsection (4) if the alleged violation of the rental or lease agreement is a result of domestic violence or domestic abuse against the tenant or lessee.

(c) A rental, lease, or other such agreement shall not contain a waiver by the tenant or lessee of the protections provided in this subsection (4).

(d) Nothing in this subsection (4) shall prevent the landlord from seeking judgment for possession against the tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged unlawful detention.

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**Address confidentiality program**

COLO. REV. STAT. ANN. § 24-30-2104

(1) There is hereby created the address confidentiality program in the department to protect the confidentiality of the actual address of a relocated victim of domestic violence, a sexual offense, or stalking and to prevent the victim’s assailants or potential assailants from finding the victim through public records. Under the program, the executive director or his or her designee shall:

- (a) Designate a substitute address for a program participant that shall be used by state and local government agencies as set forth in this part 21; and
- (b) Receive mail sent to a program participant at a substitute address and forward the mail to the participant as set forth in subsection (2) of this section.

(2) The executive director or his or her designee shall receive first-class, certified, or registered mail on behalf of a program participant and forward the mail to the participant for no charge. The executive director or his or her designee may arrange to receive and forward other classes or kinds of mail at the participant's expense. Neither the executive director nor his or her designee shall be required to track or otherwise maintain records of any mail received on behalf of a participant unless the mail is certified or registered mail.

(3)(a) Notwithstanding any provision of law to the contrary, a program participant may be served by registered mail or by certified mail, return receipt requested, addressed to the participant at his or her substitute address with any process, notice, or demand required or permitted by law to be served on the program participant. Service is perfected under this subsection (3) at the earliest of:

- (I) The date the program participant receives the process, notice, or demand; or
- (II) Five days after the date shown on the return receipt if signed on behalf of the program participant.

(b) This subsection (3) does not prescribe the only means, or necessarily the required means, of serving a program participant in the state.

(c) Whenever the laws of the state provide a program participant a legal right to act within a prescribed period of ten days or less after the service of a notice or other paper upon the participant and the notice or paper is served upon the participant by mail pursuant to this subsection (3) or by first-class mail as otherwise authorized by law, five days shall be added to the prescribed period.

(4) The executive director or his or her designee may designate as an application assistant any person who:

(a) Provides counseling, referral, or other services to victims of domestic violence, a sexual offense, or stalking; and

(b) Completes any training and registration process required by the executive director or his or her designee.

(5) Any assistance and counseling rendered by the executive director or his or her designee or an application assistant to an applicant related to this part 21 shall in no way be construed as legal advice.

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**Personal information on the internet—law enforcement official—victims of domestic violence, sexual assault, and stalking**

COLO. REV. STAT. ANN. § 18-9-313

(1) As used in this section:

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(a.9) “Participant in the address confidentiality program” means an individual accepted into the address confidentiality program in accordance with part 21 of article 30 of title 24, C.R.S.

(b) “Personal information” means the home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, or a personal photograph of a... participant in the address confidentiality program; or directions to the home of... participant in the address confidentiality program; or photographs of the home or vehicle of a ... participant in the address confidentiality program.

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(2.5) An address confidentiality program participant may submit a written request to a state or local government official and follow the process in section 24–30–2108, C.R.S., including the presentation of a valid address confidentiality program authorization card. If a state or local government official has received the above information, then the state or local government official shall not knowingly make available on the internet personal information about such participant in the address confidentiality program or the actual address, as defined in section 24–30–2103(1), C.R.S., of such participant in the address confidentiality program.

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# CONNECTICUT

Connecticut has enacted the following laws regarding survivors' housing rights:

- Early lease termination. CONN. GEN. STAT. § 47a-11e.
- Protection orders enjoining the respondent from entering the family dwelling and ordering the respondent to make rent or mortgage payments and maintain utility services. CONN. GEN. STAT. § 46b-15.
- Special needs benefit for emergency housing. CONN. GEN. STAT. § 17b-808(a)(2).
- Address confidentiality program. CONN. GEN. STAT. § 54-240 *et seq.*

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## Early lease termination

### CONN. GEN. STAT. § 47a-11e

(a) Notwithstanding the provisions of this chapter and chapter 831,<sup>1</sup> for rental agreements entered into or renewed on or after January 1, 2011, any tenant who (1) is a victim of family violence, as defined in \_\_\_\_\_, and (2) reasonably believes it is necessary to vacate the dwelling unit due to fear of imminent harm to the tenant or a dependent of the tenant because of family violence, may terminate his or her rental agreement with the landlord for the dwelling unit that the tenant occupies without penalty or liability for the remaining term of the rental agreement by giving written notice to the landlord at least thirty days prior to the date the tenant intends to terminate the rental agreement. Notwithstanding the provisions of this chapter and chapter 831, for rental agreements entered into or renewed on or after January 1, 2014, any tenant who (A) is a victim of sexual assault under any provision of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a, or is the parent or guardian with physical custody of a dependent who is the victim of sexual assault under section 53a-70c, and (B) reasonably believes it is necessary to vacate the dwelling unit due to fear of imminent harm to the tenant or a dependent of the tenant because of such sexual assault, may terminate his or her rental agreement with the landlord for the dwelling unit that the tenant occupies without penalty or liability for the remaining term of the rental agreement by giving written notice to the landlord at least thirty days prior to the date the tenant intends to terminate the rental agreement.

(b) Such notice shall include: (1) A statement made under oath or affirmation that (A) the tenant or a dependent of the tenant is a victim of family violence or sexual assault, as the case may be; (B) the tenant intends to terminate the rental agreement and the date of such intended termination; and (C) the tenant has vacated the premises and removed all of his or her possessions and personal effects or, prior to the date of such termination, will vacate the premises and remove all of his or her possessions and personal effects and, if such possessions

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<sup>1</sup> C.G.S.A. § 47a-21 *et seq.*

and personal effects have not been removed by the date of such termination, has abandoned such possessions and personal effects; and (2) (A) a copy of a police or court record detailing an act of family violence or sexual assault against the tenant or the tenant’s dependent that is dated not more than ninety days prior to the date of the tenant's notice, or (B) a signed written statement from an employee of the Office of Victim Services within the Judicial Department or the Office of Victim Advocate detailing an act of family violence or sexual assault against the tenant or the tenant's dependent that is dated not more than thirty days prior to the date of the tenant’s notice.

(c) The tenant’s termination of his or her rental agreement with the landlord pursuant to this section shall not relieve (1) the tenant from liability to the landlord for any rent arrearage incurred prior to such termination of the rental agreement or from liability to the landlord for property damage caused by the tenant, or (2) any other tenant from liability to the landlord under the rental agreement.

(d) If the tenant terminates his or her rental agreement with the landlord pursuant to this section, any occupant without the right or privilege to occupy such dwelling unit shall vacate the premises prior to the date of such termination.

(e) If such tenant or occupant fails to vacate the premises as of the date of such termination, the landlord may bring an action pursuant to chapter 832.<sup>2</sup>

(f) The landlord may bring an action in the housing session of the Superior Court for injunctive relief to prevent the termination of the rental agreement if the requirements set forth in this section for such termination have not been satisfied.

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**Relief from physical abuse, stalking or pattern of threatening by family or household member. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies**

CONN. GEN. STAT. § 46b-15

(a) Any family or household member, as defined in section 46b-38a, who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, including, but not limited to, a pattern of threatening, as described in section 53a-62, by another family or household member may make an application to the Superior Court for relief under this section. The court shall provide any person who applies for relief under this section with the information set forth in section 46b-15b.

(b) ... The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. ... Such orders may include temporary child custody or visitation rights, and such relief may

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<sup>2</sup> C.G.S.A. § 47a-23 *et seq.*

include, but is not limited to, an order enjoining the respondent from...entering the family dwelling or the dwelling of the applicant. ...

(d) Any ex parte restraining order entered under subsection (b) of this section in which the applicant and respondent are spouses, or persons who have a dependent child or children in common and who live together, may include, if no order exists, and if necessary to maintain the safety and basic needs of the applicant or the dependent child or children in common of the applicant and respondent, in addition to any orders authorized under subsection (b) of this section, any of the following: (1) An order prohibiting the respondent from (A) taking any action that could result in the termination of any necessary utility services or necessary services related to the family dwelling or the dwelling of the applicant, (B) taking any action that could result in the cancellation, change of coverage or change of beneficiary of any ... homeowners insurance policy to the detriment of the applicant or the dependent child or children in common of the applicant and respondent, or (C) transferring, encumbering, concealing or disposing of specified property owned or leased by the applicant; or (2) an order providing the applicant with temporary possession of ...documentation of ... homeowners insurance, a document needed for purposes of proving identity, a key or other necessary specified personal effects.

(e) At the hearing on any application under this section, if the court grants relief pursuant to subsection (b) of this section and the applicant and respondent are spouses, or persons who have a dependent child or children in common and who live together, and if necessary to maintain the safety and basic needs of the applicant or the dependent child or children in common of the applicant and respondent, any orders entered by the court may include, in addition to the orders authorized under subsection (b) of this section, any of the following: (1) An order prohibiting the respondent from (A) taking any action that could result in the termination of any necessary utility services or services related to the family dwelling or the dwelling of the applicant, (B) taking any action that could result in the cancellation, change of coverage or change of beneficiary of any ... homeowners insurance policy to the detriment of the applicant or the dependent child or children in common of the applicant and respondent, or (C) transferring, encumbering, concealing or disposing of specified property owned or leased by the applicant; (2) an order providing the applicant with temporary possession of ... documentation of ...homeowners insurance, a document needed for purposes of proving identity, a key or other necessary specified personal effects; or (3) an order that the respondent: (A) Make rent or mortgage payments on the family dwelling or the dwelling of the applicant and the dependent child or children in common of the applicant and respondent, (B) maintain utility services or other necessary services related to the family dwelling or the dwelling of the applicant and the dependent child or children in common of the applicant and respondent, (C) maintain all existing ... homeowners insurance coverage without change in coverage or beneficiary designation, or (D) provide financial support for the benefit of any dependent child or children in common of the applicant and the respondent, provided the respondent has a legal duty to support such child or children and the ability to pay. The court shall not enter any order of financial support without sufficient evidence as to the ability to pay, including, but not limited to, financial affidavits. ...

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**Special needs benefit for emergency housing. Limitation**

CONN. GEN. STAT. § 17b-808(a)(2)

(a) The Commissioner of Social Services shall provide a special needs benefit for emergency housing to any recipient of payments under the temporary family assistance program and the optional state supplementation program who cannot remain in permanent housing because ... (2) the recipient has left to escape domestic violence .... Any person receiving a benefit under this section shall agree to reside in any housing which was constructed, renovated or rehabilitated with state or federal financial assistance. Notwithstanding the provisions of this section, any family receiving the benefit under this section pursuant to subdivision (7) shall not be required to reside in any housing in which the paint contains a toxic level of lead as defined by the Commissioner of Public Health in regulations adopted pursuant to section 19a-111. Under the temporary family assistance program, any person not eligible for the benefit under this section shall be referred to the Department of Social Services' program for emergency shelter services. ...

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**Address Confidentiality Program. Program purpose. Regulations**

CONN. GEN. STAT. § 54-240a

(a) There shall be an address confidentiality program established in the office of the Secretary of the State to provide a substitute mailing address for any person who has been a victim of family violence, injury or risk of injury to a child, sexual assault or stalking, and who wishes to keep such person's residential address confidential because of safety concerns.

(b) The Secretary of the State shall adopt regulations, in accordance with the provisions of chapter 54<sup>3</sup>, to carry out the provisions of this chapter. Such regulations may include, but need not be limited to, provisions for applications for participation in the address confidentiality program, certification of program participants, certification cancellation, agency use of program addresses, forwarding of program participants' mail, voting by program participants and recording of vital statistics for program participants.

**Application for program participation. Application assistants**

CONN. GEN. STAT. § 54-240b

(a) An adult person, a guardian or conservator of the person acting on behalf of an adult person, or a parent or guardian acting on behalf of a minor may apply to the Secretary of the State for participation in the address confidentiality program and to have the Secretary of the State

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<sup>3</sup> C.G.S.A. § 4-166 *et seq.*

designate a program address to serve as the address of the adult person or of the minor. Each application for program participation shall be completed with the assistance of an application assistant.

(b) The Secretary of the State shall make available a list of entities that employ application assistants to assist applicants in applying for participation in the address confidentiality program, provided no entity shall be included on such list unless the entity has received sufficient funds from federal or state sources as reimbursement for the reasonable costs of implementing the provisions of this chapter.

### **Certification as program participant. Application requirements**

#### CONN. GEN. STAT. § 54-240c

The Secretary of the State shall certify an applicant or the person on whose behalf an application is made as a program participant if the application is filed in the manner and on the application form prescribed by the Secretary of the State and includes:

- (1) A statement made under penalty of false statement, as provided in section 53a-157b, that (A) the applicant or the person on whose behalf the application is made is a victim of family violence, injury or risk of injury to a minor, sexual assault or stalking, and (B) the applicant fears for the applicant's safety, for the safety of the applicant's children, for the safety of the person on whose behalf the application is made, or for the safety of the children of the person on whose behalf the application is made;
- (2) Documentation supporting the statement made pursuant to subdivision (1) of this section;
- (3) A designation of the Secretary of the State as the agent of the applicant or the person on whose behalf the application is made for service of process and for receipt of first class mail;
- (4) The residential address in this state, the work and school addresses in this state, if any, and the phone number or numbers, if available, that are to remain confidential, but which may be used by the Secretary of the State or authorized personnel to contact the applicant or the person on whose behalf the application is made; and
- (5) The application preparation date, the applicant's signature and the signature of the application assistant who assisted the applicant in completing the application.

### **Certification card**

#### CONN. GEN. STAT. § 54-240d

Upon certification of an applicant or a person on whose behalf an application is made as a program participant pursuant to section 54-240c, the Secretary of the State shall issue a certification card to such applicant or person, as appropriate. The certification card shall include the program participant's name and signature, a certification code, the program address and the

certification expiration date. Such certification expiration date shall be four years from the date of issuance of the certification card.

**Program address. Forwarding of mail**

CONN. GEN. STAT. § 54-240e

(a) The Secretary of the State shall maintain a post office box for the exclusive use of the program. The post office box number and a fictitious street address shall be the program address for program participants.

(b) The Secretary of the State shall open the post office box each day, other than Saturdays, Sundays and state holidays, and retrieve the contents. All first class mail addressed to a program participant shall be placed, unopened, into envelopes addressed to the participant and deposited at a United States post office the same day for delivery by first class mail to the participant at the confidential address indicated on the application by the participant or by the person applying on behalf of the participant.

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# DELAWARE

Delaware has enacted the following laws regarding survivors' housing rights:

- Early lease termination. DEL. CODE ANN. tit. 25, § 5314.
- Eviction protection. DEL. CODE ANN. tit. 25, § 5316.
- Address confidentiality program. DEL. CODE ANN. tit. 11, §§ 9611-9619.
- Confidential voter registration. DEL. CODE ANN. tit. 15, § 1303.
- Confidential motor vehicle registration. DEL. CODE ANN. tit. 21, § 305.

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## **Tenant's right to early termination**

DEL. CODE ANN. tit. 25, § 5314

(a) Except as is otherwise provided in this part, whenever either party to a rental agreement rightfully elects to terminate, the duties of each party under the rental agreement shall cease and all parties shall thereupon discharge any remaining obligations as soon as is practicable.

(b) Upon 30 days' written notice, which 30-day period shall begin on the first day of the month following the day of actual notice, the tenancy may be terminated:

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(6) By a tenant who is the victim of domestic abuse, sexual offenses, stalking, or a tenant who has obtained or is seeking relief from domestic violence or abuse from any court, police agency, or domestic violence program or service;

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## **Protection for victims of domestic abuse, sexual offenses and/or stalking**

DEL. CODE ANN. tit. 25, § 5316

(a) A landlord may not pursue any action for summary possession, demand any increase in rent, decrease any services, or otherwise cause any tenant to quit a rental unit where said tenant is a victim of domestic abuse, sexual offenses, or stalking, and where said tenant has obtained or has sought assistance for domestic abuse, sexual offenses, or stalking from any court, police, medical emergency, domestic violence, or sexual offenses program or service.

(b) If the tenant proves that the landlord instituted any of the actions prohibited by subsection (a) of this section, above, within 90 days of any incident in which the tenant was a victim of domestic abuse, sexual offenses and/or stalking, it shall be a rebuttable presumption that said action is in violation of subsection (a) of this section, above.

(c) A landlord may rebut the presumption that the prohibited action is in violation of subsection (a) of this section, above, if:

(1) The landlord is seeking to recover possession of the rental unit on the basis of an appropriate notice to terminate which was given to the tenant prior to the incident of domestic abuse, sexual offenses, or stalking;

(2) The landlord seeks in good faith to recover possession of the rental unit for immediate use as the landlord's own residence;

(3) The landlord seeks in good faith to recover possession of the rental unit for the purpose of substantially altering, remodeling or demolishing the premises;

(4) The landlord seeks in good faith to recover possession of the rental unit for the purpose of immediately terminating, for at least 6 months, use of the premises as a rental unit;

(5) The landlord has in good faith contracted to sell the property and the contract of sale contains a representation from the purchaser confirming that purchaser's intent to use the property in consistency with paragraphs (2), (3) or (4) of this subsection;

(6) The landlord has become liable for a substantial increase in property taxes or a substantial increase in other maintenance or operating costs, and such liability occurred not less than 4 months prior to the demand for the increase in rent, and the increase in rent does not exceed the prorata portion of the net increase in taxes or cost;

(7) The landlord has completed a substantial capital improvement of the rental unit or the property of which it is a part, not less than 4 months prior to the demand for increased rent, and such increase in rent does not exceed the amount which may be claimed for federal income tax purposes as a straight-line depreciation of the improvement, prorated among the rental units benefited by the improvement;

(8) The landlord can establish, by competent evidence, that the rent now demanded of the tenant does not exceed the rent charged other tenants of similar rental units in the same complex;

(9) The landlord can establish, by competent evidence, that the domestic abuse, sexual assault and/or stalking constitutes a viable and substantial risk of serious physical injury to a tenant who currently resides in another unit of the same multi-unit building as the domestic violence, sexual assault or stalking victim; or

(10) The landlord, after being given notice of the tenant's victimization per § 5141(7) or (28) of this title, discontinues those actions prohibited by subsection (a) of this section, above.

(d) A tenant who is otherwise delinquent in the payment of rent may not take advantage of the protection provided in this section.

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**Address confidentiality program**

DEL. CODE ANN. tit. 11, § 9612

(a) The Department of Justice shall establish a program to be known as the Address Confidentiality Program. Upon application and certification, persons eligible pursuant to this subchapter shall be provided a substitute address by the Program.

(b) The Program shall forward all correspondence sent by first class, express, registered and certified mail at no expense to a program participant and may arrange to receive and forward other classes or kinds of mail at the program participant's expense.

(c) Upon a person's certification for participation in the Program, the Department of Justice will provide notice of that fact and the program participant's substitute address to the appropriate officials and parties involved in an ongoing civil or criminal case in which a program participant is a victim, witness, or party.

(d) All records relating to applicants and program participants are the property of the Department of Justice. These records, including but not limited to program applications, a participants' actual addresses and waiver proceedings, shall be deemed to be confidential, and shall also not be subject to the provisions of Chapter 100 of Title 29.

**Persons eligible to apply**

DEL. CODE ANN. tit. 11, § 9613

The following persons shall be eligible to apply to become program participants:

(1) A victim of domestic violence, sexual assault, or stalking who has filed for a protection from abuse order or who is or was named as a victim in any criminal or delinquency proceeding brought for the purpose of determining liability for the commission of any crime or offense as those terms are defined in § 233 of this title, and who further states that he or she fears future violent acts by the perpetrator of the abuse; or

(2) A person who has a valid agreement with the Department of Justice as set out in § 9601(f) of this title; or

(3) A person who is a member of the same household as a program participant. A parent or guardian may apply to the program on behalf of a minor; or in the case of an adult individual who is incapacitated, application may be made by the person holding power of attorney;

(4) A person who has obtained or is seeking relief from a domestic violence program or service, as certified by the director of that program or his or her designee.

**Application, certification and termination process**

DEL. CODE ANN. tit. 11, § 9614

A person shall file an application with the Program in a manner prescribed by the Program. The Department of Justice shall have the authority to promulgate appropriate policies and procedures regarding certification and termination. Certification shall be valid for a period of 3 years following the date of certification unless the certification is withdrawn or canceled before the expiration of that period, or a person's participation in the program is otherwise terminated.

**Penalties**

DEL. CODE ANN. tit. 11, § 9619

(a) Any person who knowingly provides false information in regard to a material fact contained in any application made pursuant to this subchapter shall be subject to termination from the program and to criminal penalties under § 1233 of this title, or any other applicable provision of this Code.

(b) Any person who intentionally, knowingly or recklessly attempts to gain access to or gains access to a program participant's actual address by fraud or misrepresentation may be subject to criminal penalties under §§ 873, 876, and 932 of this title, or any other applicable provision of this Code.

(c) A person who lawfully obtains a program participant's actual address and who subsequently discloses or uses the actual address in a manner not authorized by this subchapter may be subject to criminal penalties under §§ 873, 876, and 932 of this title, or any other applicable provision of this Code.

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**Confidentiality of addresses**

DEL. CODE ANN. tit. 15, § 1303

(a) A person may petition the Superior Court for an order to have that person's own address, which is required to be placed on voter application, registration or transfer records, kept confidential upon a showing of a legitimate need and lawful purpose. A person's participation in Department of Justice's Address Confidentiality Program shall constitute a legitimate need and lawful purpose for the purposes of this section. Upon submission to the State Election

Commissioner and department of elections for the county in which the voter seeks to register of a certified copy of the court order granting confidentiality, the person's address shall be removed from all voter records available for public inspection, as long as the submission is not 21 days prior to an election, in which case the person's address shall be removed from the voter records within 7 days after the election.

(b) Following submission of the court order, the person's address may not be made available for public inspection or copying, except under the following circumstances:

- (1) If requested, to a law enforcement agency; or
- (2) If directed by a court order, to a person identified in the order.

Within 3 days of the date of any disclosure of a confidential address under paragraph (b)(2) of this section, the State Election Commissioner shall give to the person whose address was disclosed written notification of the disclosure, the name of the person to whom the information was disclosed and the reason for the disclosure. The Commissioner may attach a copy of the court order to satisfy these requirements. A person to whom disclosure is made under paragraph (b)(2) of this section shall sign a statement agreeing to keep such information confidential.

(c) Any address rendered confidential pursuant to this section shall remain confidential for as long as the Court shall order.

(d) Unlawful acts and penalties.--

- (1) Procurement for unlawful purposes.--It shall be unlawful for any person knowingly to obtain or disclose any address from voter records that is rendered confidential for any use not permitted under this section.
- (2) False representation.--It shall be unlawful for any person to make false representation to obtain from voter records a person's address that has been rendered confidential under this section.
- (3) Penalties.--Any person requesting the disclosure of personal information from voter registration records who misrepresents the person's identity or knowingly makes a false statement in order to obtain restricted information or who knowingly violates any other provision of this chapter shall be guilty of a class A misdemeanor.

(e) The State's election officials shall use e-mail addresses obtained through registration and absentee voting activities for official business only; these addresses shall not be subject to Freedom of Information requests and shall not be disseminated outside of the Departments of Elections on lists of registered voters or in any other manner.

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**Privacy act governing the release of motor vehicle driving history and license records**DEL. CODE ANN. tit. 21, § 305

(a) *In general.*--Except as provided in subsections (b), (d), (e) and (i) of this section, the Division of Motor Vehicles and any officer, employee or contractor thereof or any other person shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the Division in connection with a motor vehicle record. Only driver license and driver performance records which are 3 years old or less shall be made available to authorized persons or agencies, except persons requesting their own records, law-enforcement officers, the courts and other motor vehicle jurisdictions may also have access to those records and to vehicle title and registration information which are over 3 years old and are being retained by the Division. Division motor vehicle records can be transmitted to other motor vehicle jurisdictions electronically over authorized networks.

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(c) *Requests for additional protection of personal information.*--A person may submit a notarized affidavit to be supplied by the Division requesting that person's address, phone number and social security number contained in the driver or vehicle records of the Division be kept confidential except from those named in paragraphs (b)(1), (2) and (6) of this section. The affidavit must swear or affirm that the request is being made because of the person's fear of harm from another individual to themselves, a family or household member or their property. A properly submitted notarized affidavit satisfying these conditions shall be honored by the Division and shall remain in effect until the record is purged from the Division's files or until the requesting person submits written notice requesting the release of that person's personal information. This section does not prohibit the Division from the normal practice of returning a vehicle title with personal information displayed to a lienholder or lessor. In addition, the Division may return a vehicle title and registration card to a dealership who has submitted the title application for their customer.

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(m) *Unlawful acts.*--

(1) *Procurement for unlawful purposes.*--It shall be unlawful for any person knowingly to obtain or disclose personal information from a motor vehicle record for any use not permitted under this title.

(2) *False representation.*--It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

(n) *Penalties.*--Any person requesting the disclosure of personal information from Department records who misrepresents the person's identity or knowingly makes a false statement to the Department in order to obtain restricted information or who knowingly violates any other

provision of this chapter shall be guilty of a class A misdemeanor.

(o) *Civil actions.*--

(1) *Cause of action.*--A person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains.

(2) *Remedies.*--The court may award:

- a. Actual damages, but not less than liquidated damages in the amount of \$2,500;
- b. Punitive damages upon proof of wilful or reckless disregard of the law;
- c. Reasonable attorney's fees and other litigation costs reasonably incurred; and
- d. Such other preliminary and equitable relief as the court determines to be appropriate.

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# DISTRICT OF COLUMBIA

The District of Columbia has enacted the following laws regarding survivors' housing rights:

- Freedom from Domestic Violence Recognition Resolution of 2013.
- Housing anti-discrimination. D.C. CODE § 2-1402.21.
- Right to call police. D.C. CODE § 2-1402.21.
- Early lease termination. D.C. CODE § 42-3505.07.
- Eviction defense. D.C. CODE § 42-3505.01.
- Lock changes. D.C. CODE § 42-3505.08.
- Protective orders directing respondent to refrain from entering petitioner's dwelling. D.C. CODE § 16-1005.

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## **Freedom From Domestic Violence Recognition Resolution of 2013**

A Ceremonial Resolution, 20-60, In the Council of the District of Columbia (June 4, 2013)

To declare that freedom from domestic violence is a fundamental human right and that state and local governments have a responsibility to respect and ensure this right on behalf of their citizens.

WHEREAS, survivors of domestic violence experience the effects of physical injuries, long-term psychological damage, financial instability, and trouble finding safe housing;

WHEREAS, while domestic violence is often marginalized as a private concern, its impact is felt across the entire community as a whole;

WHEREAS, more than one in 3 women and more than one in 4 men in the United States will experience rape, physical violence, or stalking by an intimate partner at some point in their lives, and this problem disproportionately impacts women of color, women with disabilities, women with low incomes, and immigrant women, as well as their children;

WHEREAS, according to the Rainbow Response Coalition, in 2012, approximately one in 3 residents of the District of Columbia who identify as lesbian, gay, bisexual, or transgender have been in an abusive relationship;

WHEREAS, 13 individuals died as a result of domestic violence in the District of Columbia in 2011, according to the Metropolitan Police Department;

## DISTRICT OF COLUMBIA

WHEREAS, the District of Columbia Office of Attorney General reports that in 2012 a total of 5,478 individuals received assistance at the District's 2 Domestic Violence Intake Centers, an average of 22 individuals per day;

WHEREAS, the Metropolitan Police Department reports that in 2012 the department received 31,815 domestic-related crime calls—approximately 87 calls each day;

WHEREAS, the District of Columbia Coalition Against Domestic Violence reports that in 2011 there was a 15% increase in foreign-born individuals and a 26% increase in the number of individuals between the ages of 13 through 17 years who received assistance at the District's 2 Domestic Violence Intake Centers;

WHEREAS, local entities such as police departments, providers of medical services, courts, cities, and social service agencies constitute a crucial line of defense against domestic violence and incur significant monetary costs due to domestic violence;

WHEREAS, world leaders and leaders within the United States recognize that domestic violence is a human rights concern;

WHEREAS, the 1993 United Nations Declaration on the Elimination of Violence against Women recognizes the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity, and dignity of all human beings that are enshrined in international human rights treaties, and urges States to pursue by all appropriate means and without delay a policy of eliminating violence against women;

WHEREAS, in view of the alarming growth in the number of cases of violence against women throughout the world, the United Nations Commission on Human Rights adopted resolution 1994/45 on March, 4, 1994, appointing a Special Rapporteur on violence against women, including its causes and consequences;

WHEREAS, the UN Special Rapporteur on violence against women has urged the United States government to reassess its response to domestic violence, stating that “violence against women is the most pervasive human rights violation which continues to challenge every country in the world, and the U.S. is no exception”;

WHEREAS, in 2011, the Inter-American Commission on Human Rights found in *Jessica Lenahan (Gonzales) v. United States* that the United States' failure to protect women from gender-based violence constitutes discrimination and a human rights violation, and urged the United States to enact law and policy reforms to protect victims of domestic violence and their children; and

WHEREAS, by recognizing that domestic violence is a human rights issue, the District of Columbia will raise awareness and enhance domestic violence education in communities, the public and private sectors, and within government agencies.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Freedom From Domestic Violence Recognition Resolution of 2013”.

Sec. 2. The District of Columbia joins other cities in the United States and governments around the world by declaring that freedom from domestic violence is a fundamental human right.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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**Intent of Council**

D.C. CODE § 2-1401.01

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, and place of residence or business.

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**Prohibitions**

D.C. CODE § 2-1402.21

(a) *General.* -- It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, status as a victim of an intrafamily offense, or place of residence or business of any individual:

- (1) To interrupt or terminate, or refuse or fail to initiate or conduct any transaction in real property; or to require different terms for such transaction; or to represent falsely that an interest in real property is not available for transaction;
- (2) To include in the terms or conditions of a transaction in real property, any clause, condition or restriction;
- (3) To appraise a property, refuse to lend money, guarantee a loan, purchase a loan, accept residential real property as security for a loan, accept a deed of trust or mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property;
- (4) To refuse or restrict facilities, services, repairs or improvements for a tenant or lessee;

(5) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a transaction, or proposed transaction, in real property, or financing relating thereto, which notice, statement, or advertisement unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business, of any individual;

(6) To discriminate in any financial transaction involving real property, on account of the location of residence or business (i.e. to “red-line”); or

(7) To limit access to, or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting residential real estate, or to discriminate against any person in terms or conditions of access, membership or participation in any organization, service or facility.

(b) *Subterfuge.* -- It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, status as victim of an intrafamily offense, or place of residence or business of any individual.

...

(f) *Victims of intrafamily offenses* --

(1) For purposes of this subsection, the term “record” means documentation produced by a law enforcement officer, as defined in § 4-1301.02(14), or a court order pursuant to § 16-1005.

(2) It shall be an unlawful discriminatory practice to do any of the acts prohibited in subsections (a) and (b) of this section wholly or partially based on the fact that a person residing, or intending to reside, in the dwelling is, has a record of being, a victim of an intrafamily offense, as defined in § 16-1001(8).

(3) It shall be an unlawful discriminatory practice to do any of the following additional acts, for purposes of this subsection, wholly or partially based on the fact that a person residing, or intending to reside, in the dwelling is, or has a record of being, a victim of an intrafamily offense, as defined in § 16-1001(8):

(A) Refusing to make a reasonable accommodation in restoring or improving security and safety measures beyond the housing provider’s duty of ordinary care and diligence, the costs of which the housing provide may charge to the tenant,

when an accommodation is necessary to ensure the person's security and safety;

(B) Refusing to permit a person to terminate the lease of the premises early, without penalty, upon notice to the landlord and upon a showing that the person is a victim of an intrafamily offense, pursuant to § 42-3505.07;

(C) (i) Barring or limiting the right of a person to call for police or emergency assistance, which right, for purposes of this subsection, shall not be waivable; or

(ii) Imposing any penalty for calling police or emergency assistance.

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**Definitions**

D.C. CODE § 16-1001

For the purposes of this subchapter, the term:

...

(5) "Domestic Violence Unit" means any subdivision of the court designated by court rule, or by order of the Chief Judge of the court, to hear proceedings under this subchapter.

(6) "Interpersonal violence" means an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person:

(A) With whom the offender shares or has shared a mutual residence; or

(B) Who is or was married to, in a domestic partnership with, divorced or separated from, or in a romantic, dating, or sexual relationship with another person who is or was married to, in a domestic partnership with, divorced or separated from, or in a romantic, dating, or sexual relationship with the offender.

(7) "Intimate partner violence" means an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person:

(A) To whom the offender is or was married;

(B) With whom the offender is or was in a domestic partnership; or

(C) With whom the offender is or was in a romantic, dating, or sexual relationship.

(8) "Intrafamily offense" means interpersonal, intimate partner, or intrafamily violence.

(9) "Intrafamily violence" means an act punishable as a criminal offense that is committed or threatened to be committed by an offender upon a person to whom the offender is related by

blood, adoption, legal custody, marriage, or domestic partnership, or with whom the offender has a child in common.

...

(12) "Petitioner" means any person who alleges, or for whom is alleged, that he or she is the victim of interpersonal, intimate partner, or intrafamily violence, stalking, sexual assault, or sexual abuse.

(13) "Respondent" means any person 12 years of age or older against whom a petition for civil protection is filed under this subchapter.

.....  
**Notice of lease termination by tenant who is a victim of an intrafamily offense**

D.C. CODE § 42-3505.07

(a) For purposes of this section, the term "qualified third party" means any of the following persons acting in their official capacity:

- (1) A law enforcement officer, as defined in § 4-1301.02(14);
- (2) A sworn officer of the D.C. Housing Authority Office of Public Safety;
- (3) A health professional, as defined in § 3-1201.01(8); or
- (4) A domestic violence counselor as defined in § 14-310(a)(2).

(b) If a tenant, who is a victim, or who is the parent or guardian of a minor victim, of an intrafamily offense or actions relating to an intrafamily offense, as defined in § 16-1001(8), provides a housing provider with a copy of an order under § 16-1005 in response to a petition filed by or on behalf of the tenant, the tenant shall be released from obligations under the rental agreement.

(c) If a tenant who is a victim, or who is the parent or guardian of a minor victim, of an intrafamily offense or actions relating to an intrafamily offense, as defined in § 16-1001(8), provides a housing provider with documentation signed by a qualified third party showing that the tenant has reported the intrafamily offense to the third party acting in his or her official capacity, the tenant shall be released from obligations under the rental agreement.

(d) The release from a rental agreement shall be effective upon the earlier of:

- (1) Fourteen days after the housing provider receives:
  - (A) Written notice of the lease termination under this section; and

(B) Documentation pursuant to subsection (b) or (c) of this section; or

(2) Upon the commencement of a new tenancy for the unit.

(e) Any request by the tenant for termination of the rental agreement under this section shall be made within 90 days of the reported act, event, or circumstance that was cited in the petition or reported to a qualified third party.

(f) Notwithstanding any penalty provided under a rental agreement, a tenant who is released from the rental agreement under this section shall be liable only for his or her rental payment obligation, pro-rated to the earlier of:

(1) The date the housing provider rents the unit to a new tenant or party who succeeds to the tenant's rights under the original agreement; or

(2) Fourteen days after the request for the release.

(g) This section shall not affect section 2908 of the Housing Regulations of the District of Columbia, effective August 11, 1955 (C.O. 55-1503; 14 DCMR § 308 through § 311), or the tenant's liability for delinquent, unpaid rent, or other sums owed to the housing provider before the lease was terminated by the tenant under this section.

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**Evictions**

D.C. CODE § 42-3505.01

...

(b) A housing provider may recover possession of a rental unit where the tenant is violating an obligation of tenancy and fails to correct the violation within 30 days after receiving from the housing provider a notice to correct the violation or vacate.

(c) A housing provider may recover possession of a rental unit where a court of competent jurisdiction has determined that the tenant, or a person occupying the premises with or in addition to the tenant, has performed an illegal act within the rental unit or the housing accommodation. The housing provider shall serve on the tenant a 30-day notice to vacate. The tenant may be evicted only if the tenant knew or should have known that an illegal act was taking place.

(c-1)(1) It shall be a defense to an action for possession under subsections (b) or (c) of this section that the tenant is a victim, or is the parent or guardian of a minor victim, of an intrafamily offense or actions relating to an intrafamily offense, as defined in § 16-1001(8), if the Court determines that the intrafamily offense, or actions relating to the intrafamily offense, are the basis for the notice to vacate.

(2) If, as a result of the intrafamily offense or the actions relating to the intrafamily offense that is the basis for the notice to vacate, the tenant has received a temporary or civil protection order ordering the respondent to vacate the home, the court shall not enter a judgment for possession.

(3) If, as a result of the intrafamily offense or the actions relating to the intrafamily offense that is the basis for the notice to vacate, the tenant provides to the court a copy of a police report written within the preceding 60 days or has filed for but has not received a temporary or civil protection order ordering the respondent to vacate the home, the court shall have the discretion not to enter a judgment for possession under this subchapter.

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**Victims of an intrafamily offense protection--change locks and notice**

D.C. CODE § 42-3505.08

(a) Upon the written request of a tenant who is the victim of an intrafamily offense, as defined in § 16-1001(8), a housing provider shall change the locks to all entrance doors to that tenant's unit within 5 business days; provided, that if the perpetrator of the intrafamily offense is a tenant in the same dwelling unit as the tenant who makes the request, the tenant who makes the request shall provide the landlord with a copy of a protective order issued pursuant to § 16-1005 ordering the perpetrator to stay away from, or avoid, the tenant who makes the request, any other household member, or the dwelling unit. If the perpetrator of the intrafamily offense is not, or is no longer, a tenant in the same dwelling unit as the tenant who makes the request, no documentation of the intrafamily offense shall be required.

(b) The housing provider shall pay the cost of changing the locks. No later than 45 days after the housing provider provides the tenant who makes the request with documentation of the cost of changing the locks, the tenant shall reimburse the housing provider for such cost and any associated fee; provided, that the fee shall not exceed the fee imposed on any other tenant for changing the locks under any other circumstances.

(c) Upon receipt of a copy of the court order pursuant to subsection (a) of this section, unless the court orders that the perpetrator be allowed to return to the unit for some purpose, the housing provider shall not provide the perpetrator with keys to the unit or otherwise permit the perpetrator access to the unit or to property within the unit.

(d) The housing provider shall not be liable to the perpetrator for any civil damages as a result of actions the housing provider takes to comply with this section.

(e) This section shall not be construed to relieve the perpetrator of any obligation under a lease agreement or any other liability to the housing provider.

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**Hearing; evidence; protection order**

D.C. CODE § 16-1005

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(c) If, after hearing, the judicial officer finds that there is good cause to believe the respondent has committed or threatened to commit a criminal offense against the petitioner or against petitioner’s animal or an animal in petitioner’s household, the judicial officer may issue a protection order that:

...

(2) Requires the respondent to stay away from or have no contact with the petitioner and any other protected persons or locations;

...

(4) Directs the respondent to refrain from entering, or to vacate, the dwelling unit of the petitioner when the dwelling is:

- (A) Marital property of the parties;
- (B) Jointly owned, leased, or rented and occupied by both parties; provided, that joint occupancy shall not be required if the respondent's actions caused the petitioner to relinquish occupancy;
- (C) Owned, leased, or rented by the petitioner individually; or
- (D) Jointly owned, leased, or rented by the petitioner and a person other than the respondent;

(5) Directs the respondent to relinquish possession or use of certain personal property owned jointly by the parties or by the petitioner individually;

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# FLORIDA

Florida has enacted the following laws regarding survivors' housing rights:

- Address confidentiality program. FLA. STAT. ANN. §§ 741.401-741.409, 741.465.
- Exemptions from inspection or copying public records. FLA. STAT. ANN. § 119.071(2)(j).
- Relocation assistance. FLA. STAT. ANN. § 960.198.
- Employer mandated support of domestic violence victim when victim needs work accommodation, such as time off to find new housing. FLA. STAT. ANN. § 741.313.
- Services to immigrant survivors of human trafficking, domestic violence, and other serious crimes. FLA. STAT. ANN. § 402.87.

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## **Address confidentiality program; application; certification**

### FLA. STAT. ANN. § 741.403

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person's address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains all of the following:

- (a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, and that the applicant fears for his or her safety or his or her children's safety or the safety of the minor or incapacitated person on whose behalf the application is made.
- (b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.
- (c) The mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General.
- (d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.

(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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**Public records exemption for the Address Confidentiality Program for Victims of Domestic Violence**

FLA. STAT. ANN. § 741.465

(1) The addresses, corresponding telephone numbers, and social security numbers of program participants in the Address Confidentiality Program for Victims of Domestic Violence held by the Office of the Attorney General are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of a valid arrest warrant; if directed by a court order, to a person identified in the order; or if the certification has been canceled. For purposes of this section, the term “address” means a residential street address, school address, or work address, as specified on the individual's application to be a program participant in the Address Confidentiality Program for Victims of Domestic Violence.

(2) The names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence contained in voter registration and voting records held by the supervisor of elections and the Department of State are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of an arrest warrant or, if directed by a court order, to a person identified in the order. This exemption applies to information made exempt by this subsection before, on, or after the effective date of the exemption.

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**General exemptions from inspection or copying of public records**

FLA. STAT. ANN. § 119.071(2)(j)

(j) 1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

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**Relocation assistance for victims of domestic violence**

FLA. STAT. ANN. § 960.198

(1) Notwithstanding the criteria set forth in s. 960.13 for crime victim compensation awards, the department may award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment.

(2) In order for an award to be granted to a victim for relocation assistance:

- (a) There must be proof that a domestic violence offense was committed;
- (b) The domestic violence offense must be reported to the proper authorities;
- (c) The victim's need for assistance must be certified by a certified domestic violence center in this state; and
- (d) The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.

(3) Relocation payments for a domestic violence claim shall be denied if the department has previously approved or paid out a human trafficking or sexual battery relocation claim under s. 960.196 or s. 960.199 to the same victim regarding the same incident.

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**Unlawful action against employees seeking protection**

FLA. STAT. ANN. § 741.313

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(2)(a) An employer shall permit an employee to request and take up to 3 working days of leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence. This leave may be with or without pay, at the discretion of the employer.

(b) This section applies if an employee uses the leave from work to:

1. Seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence;
2. Obtain medical care or mental health counseling, or both, for the employee or a family or household member to address physical or psychological injuries resulting from the act of domestic violence or sexual violence;
3. Obtain services from a victim services organization, including, but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of domestic violence or sexual violence;
4. Make the employee’s home secure from the perpetrator of the domestic violence or sexual violence or to seek new housing to escape the perpetrator;

...

.....

**Services to immigrant survivors of human trafficking, domestic violence, and other serious crimes**

FLA. STAT. ANN. § 402.87

The Department of Children and Family Services shall establish a structure by which the department shall:

(1) Provide services to immigrant survivors of human trafficking, domestic violence, and other serious crimes, during the interim period between the time the survivor applies for a visa and

receives such visa from the United States Department of Homeland Security or receives certification from the United States Department of Health and Human Services.

(2) Ensure that immigrant survivors of serious crimes are eligible to receive existing state and local benefits and services to the same extent that refugees receive those benefits and services.

(3) Ensure that immigrant survivors of serious crimes have access to state-funded services that are equivalent to the federal programs that provide cash, medical services, and social service for refugees.

(4) Provide survivors of serious crimes with medical care, mental health care, and basic assistance in order to help them secure housing, food, and supportive services.

(5) Create a state-funded component of the cash, medical, and social services programs for refugees for the purpose of serving immigrant survivors during the temporary period while they wait for federal processing to be completed.

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# MIAMI-DADE COUNTY, FLORIDA

Miami-Dade County, Florida has enacted the following laws regarding survivors' housing rights:

- Resolution declaring freedom from domestic violence is a fundamental human right
- Prohibiting housing discrimination based on a person's status as victim of domestic violence, dating violence, or stalking. Code of Miami-Dade County, Florida Art. I-II §§ 11A-1, 11A-2, 11A-12, 11A-13.

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## **Resolution declaring freedom from domestic violence is a fundamental human right**

WHEREAS, the Board of County Commissioners ("Board") of Miami-Dade County, Florida ("County") seeks to enhance the public welfare by declaring that the protection against domestic violence is a fundamental human right; and

WHEREAS, survivors of domestic violence must deal with the effects of physical injuries, long-term psychological damage, financial instability, and trouble finding safe housing; and

WHEREAS, more than 1 in 3 women and more than 1 in 4 men in the United States will experience rape, physical violence, and/or stalking by an intimate partner at some point in their lives; and this problem disproportionately impacts women of color, women with disabilities, women with low income, and immigrant women within Miami-Dade County, as well as their children; and

WHEREAS, according to 2011 Uniform Crime Reports, of the 111,681 reported domestic violence offenses Statewide, 9,313 occurred in Miami-Dade County, representing the highest number of domestic violence cases of any county in Florida; and

WHEREAS, of those 9,313 Miami-Dade County domestic violence offenses, about half (4,736) resulted in arrests; and of the 5,970 temporary injunctions issued in Miami-Dade County on domestic violence, dating violence, and sexual violence, twenty-three percent (1,401) resulted in the issuance of permanent injunctions; and

WHEREAS, in 2011, in Miami-Dade County, domestic violence victims made 5,567 crisis hotline and direct service calls for assistance; and shelters provided overnight protection to victims fleeing domestic violence 23,276 times; and there were 1,846 new admissions to residential and nonresidential domestic violence service facilities; and

WHEREAS, the United Nations Declaration on the Elimination of Violence Against Women recognizes the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity, and dignity of all human beings, and the United Nations Special Rapporteur on Violence Against Women has stated that "violence against women is the most pervasive human rights violation" and has urged the United States

## MIAMI-DADE COUNTY, FLORIDA

government to reassess laws and policies for protecting domestic violence survivors and for punishing abusers; and

WHEREAS, in 2011, the Inter-American Commission on Human Rights found in *Jessica Lenahan (Gonzales) v. United States* that the United States' failure to protect women from gender-based violence constitutes discrimination and a human rights violation, and urged the United States to enact law and policy reforms to protect victims of domestic violence and their children; and

WHEREAS, world leaders and leaders within the United States recognize that domestic violence is a human rights concern; and police and sheriffs departments, courts, counties, cities, social service agencies, and other local government entities constitute the first line of defense against domestic violence; and

WHEREAS, by recognizing that domestic violence is a human rights violation, Miami-Dade County will raise awareness and enhance domestic violence education in communities, the public and private sectors, and within government agencies,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board expresses its intent to join world leaders and leaders within the United States in recognition of domestic violence as a human rights concern and declares that the freedom from domestic violence is a fundamental human right.

Section 2. This Resolution shall serve as a declaration to assure the citizens of the County that state and local governments bear a moral responsibility to secure this human right on behalf of their residents.

Section 3. This Resolution shall serve as a charge to all local government agencies to incorporate these principles into their policies and practices.

Section 4. A copy of this Resolution is to be sent to the Mayor, the Honorable Chair and Members of the Board of County Commissioners, the Director of the Miami-Dade Police Department, the Mayors and Commission and Council members of each municipality within Miami-Dade County.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. It was offered by Commissioner, who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman  
Audrey M. Edmonson, Vice Chairwoman  
Bruno A. Barreiro Lynda Bell  
Esteban I. Bovo, Jr. Jose "Pepe" Diaz  
Sally A. Heyman Barbara J. Jordan

MIAMI-DADE COUNTY, FLORIDA

Jean Monestime Dennis C. Moss  
Rebeca Sosa Sen. Javier D. Souto  
Xavier I. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of July, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

.....

**Prohibiting housing discrimination based on a person’s status as victim of domestic violence, dating violence, or stalking**

CODE OF MIAMI-DADE COUNTY, FLORIDA ART. I § 11A-1

(1) *Policy.* It is hereby declared to be the policy of Miami-Dade County, in the exercise of its police power for the public safety, health and general welfare, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking. It is further hereby declared to be the policy of Miami-Dade County to eliminate and prevent discrimination in housing based on source of income.

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CODE OF MIAMI-DADE COUNTY, FLORIDA ART. I § 11A-2

The definitions set out herein shall apply to articles II, III, IV and V:

...

(8) Discrimination shall mean any difference, distinction or preference in treatment, access or impact because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking.

...

(24) Victim of domestic violence shall mean a person who has been subjected to acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a

## MIAMI-DADE COUNTY, FLORIDA

continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim. (25) Victim of dating violence shall mean a person who has or had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- (a) A dating relationship must have existed within the past six (6) months;
- (b) The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- (c) The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

(26) Victim of stalking shall mean a victim of acts which constitute are deemed under Florida Law to be willful, malicious, and repeated following, harassing, or cyber stalking of another person, and/or the making of a credible threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent.

...

### CODE OF MIAMI-DADE COUNTY, FLORIDA ART. II § 11A-12

(1) *Discrimination in sale or rental of housing and other prohibited practices.* It shall be unlawful for any person, owner, financial institution, real estate broker, real estate agent or any representative of the above to engage in any of the following acts because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking, of a prospective buyer, renter, lessee.

...

(j) To directly or indirectly induce or attempt to induce for profit, the sale, purchase, rental, lease or the listing for any of the above, of any dwelling by representing that the presence or anticipated presence of a person of a particular race, color, religion, national origin, age, sex, disability, familial status, marital status, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking, will or may result in blockbusting, such as but not limited to:

- (i) The lowering of property values in the area;

MIAMI-DADE COUNTY, FLORIDA

- (ii) An increase in criminal or anti-social behavior in the area; or
- (iii) A decline in the quality of the schools or other services or facilities in the area; or

...

CODE OF MIAMI-DADE COUNTY, FLORIDA ART. II § 11A-13

...

(7) *Furnishing appraisals.* Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status, marital status, national origin, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking.

...

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# GEORGIA

Georgia has enacted the following laws regarding survivors' housing rights:

- A court may grant a protective order that:
  1. Grants exclusive possession of the residence to the protected party. GA. CODE ANN. § 19-13-4.
  2. Requires the restrained party to provide suitable alternate housing for the protected party. GA. CODE ANN. § 19-13-4.
  3. Orders the eviction of the restrained party from the residence, and orders assistance to the protected party in returning to the residence. GA. CODE ANN. § 19-13-4.

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## **Protective orders and consent agreements**

### GA. CODE ANN. § 19-13-4

(a) The court may, upon the filing of a verified petition, grant any protective order or approve any consent agreement to bring about a cessation of acts of family violence. ... The orders or agreements may:

...

(2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;

(3) Require a party to provide suitable alternate housing for a spouse, former spouse, or parent and the parties' child or children;

...

(5) Order the eviction of a party from the residence or household and order assistance to the victim in returning to it, or order assistance in retrieving personal property of the victim if the respondent's eviction has not been ordered;

...

.....

# HAWAII

Hawaii has enacted the following laws regarding survivors' housing rights:

- Early lease termination. HAW. REV. STAT. § 521-80.
- Lock changes. HAW. REV. STAT. § 521-81.
- Court order for domestic violence perpetrators to vacate. HAW. REV. STAT. § 521-82.
- A court may grant a restraining order enjoining the respondent from entering or visiting the protected party's residence. HAW. REV. STAT. § 586-4.
- A person's right to apply for a protective order shall not be affected by the person's leaving the residence. HAW. REV. STAT. § 586-8.

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## **Early termination of tenancy; victims of domestic violence**

### HAW. REV. STAT. § 521-80

(a) A tenant may terminate a rental agreement of a term of one year or less without penalty or fees for early termination or liability for future rent if the tenant or an immediate family member of the tenant residing at the dwelling unit has been the victim of domestic violence during the ninety days preceding the date the notice of early termination is provided to the landlord. The notice shall be given at least fourteen days prior to the early termination date specified in the notice, which shall be no more than one hundred four days from the date of the most recent act of domestic violence. The notice shall be accompanied by one of the following documents:

- (1) A copy of a valid order of protection issued by a court of any state to the tenant or immediate family member of the tenant as a result of the tenant or the immediate family member of the tenant having been a victim of domestic violence;
- (2) A copy of a police report filed with an agency of any state that states that the tenant or immediate family member of the tenant was a victim of domestic violence; or
- (3) A copy of the conviction of a person for an act of domestic violence against the tenant or immediate family member of the tenant.

The tenant shall also provide to the landlord a written statement, which describes that the tenant reasonably believes that the person who committed the domestic violence knows the address or location where the tenant or immediate family member of the tenant resides, unless the person who committed the domestic violence resides in the same dwelling unit.

(b) If the tenant is solely liable on the rental agreement, the rental agreement shall terminate on the early termination date described in subsection (a), and the tenant shall be liable for rent owed through the early termination date plus any previous obligations outstanding as of that date. The amount due from the tenant shall be paid to the landlord on or before the early termination date.

(c) If there are multiple tenants who are parties to the rental agreement, the release of one or more tenants under this section shall not terminate the rental agreement with respect to the other non-terminating tenants; provided that the other non-terminating tenants demonstrate an ability to pay the rent under the rental agreement, as determined by the landlord. If the other non-terminating tenants fail to demonstrate an ability to pay the rent, the landlord may terminate the rental agreement by giving notice of early termination to the other non-terminating tenants at least fourteen days prior to the early termination date specified in the notice; provided that the landlord shall not assess any penalty or fees for the early termination. The amount due from the other non-terminating tenants shall be paid to the landlord on or before the early termination date.

The landlord shall not be required to refund security deposits under section 521-44 or prepaid rent until:

(1) The rental agreement terminates with respect to all tenants and the dwelling unit is surrendered to the landlord; or

(2) Early termination is effected pursuant to this subsection, in which case each terminating tenant shall receive a prorated share of any security deposit or prepaid rent from the landlord upon termination of the rental agreement; provided that the percentage of any security deposit to be returned shall be determined by the court or by the parties in writing; provided further that if there is no determination made by the court or by the parties regarding the percentage share of the security deposit, the landlord shall be permitted to refund the security deposit in equal shares to each tenant on the rental agreement.

(d) If a tenant submits notice of early termination in compliance with this section, the landlord shall:

(1) Return a prorated share of all security deposits recoverable by the terminating tenant under section 521-44 and prepaid rent recoverable by the terminating tenant following the tenant's surrender of the dwelling unit, except as otherwise provided in subsection (c); provided that the landlord may withhold a prorated amount of the security deposit for payment of damages that the landlord has suffered by reason of the terminating tenant's noncompliance with section 521-51;

(2) Not assess any fee or penalty against the terminating tenant for exercising any right granted under this section; and

(3) Not disclose any information reported to the landlord under this section unless:

(A) The tenant consents to the disclosure of the information in a statement signed by the tenant;

(B) The information is required or is relevant in a judicial action; or

(C) The disclosure is required by other law.

(e) The landlord may recover from the person who committed domestic violence against the tenant or tenant's immediate family member actual damages resulting from the tenant's exercise of rights under this section. In addition, if the person who committed domestic violence is a party to the rental agreement, the landlord may:

(1) Allow the person to remain in possession of the dwelling unit and hold the person liable on the rental agreement for all future rents payable thereunder; or

(2) Terminate the person's interest under the rental agreement by notifying the person in writing at least five days in advance of the anticipated termination. The landlord may evict the person if the person fails to vacate the dwelling unit on the specified termination date.

(f) If a tenant knowingly submits false notice or accompanying documentation to a landlord in support of the right to be released from the rental agreement under this section, the landlord may recover an amount equal to three months periodic rent or threefold actual damages, whichever is greater, plus costs and reasonable attorney's fees.

(g) The person who committed domestic violence against the tenant or immediate family member of the tenant shall not be entitled to any damages or other relief against the landlord or tenant who complies with this section in good faith.

(h) This section shall not affect a tenant's liability for delinquent, unpaid rent, or other amounts owed to the landlord before the rental agreement was terminated by the tenant under this section.

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**Change of locks; victims of domestic violence**

HAW. REV. STAT. § 521-81

(a) Subject to subsections (b) and (c), if a tenant of a dwelling unit or an immediate family member of the tenant has been the victim of domestic violence and the tenant does not elect to be released from the rental agreement pursuant to section 521-80, the tenant may require the landlord to change the locks to the dwelling unit by submitting a request to the landlord to do so.

(b) Within three days of the receipt of the request in subsection (a), the landlord shall change the locks at the tenant's expense. If the landlord fails to act within the three-day period, the tenant

may change the locks without the landlord's permission and shall give the landlord a key to the new locks.

(c) If the person who committed domestic violence against the tenant or immediate family member of the tenant is also a party to the rental agreement, the locks shall not be changed unless there is a court order requiring the person to vacate the dwelling unit and a copy of the order has been furnished to the landlord.

(d) The tenant shall not be required to pay any additional rent, fees, or security deposit because of the exclusion of the person who committed domestic violence from the dwelling unit.

(e) The person who committed domestic violence against the tenant or immediate family member of the tenant shall not be entitled to any damages or other relief against the landlord or the tenant who in good faith complies with this section.

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**Court order to vacate; domestic violence.**

HAW. REV. STAT. § 521-82

(a) If a court of competent jurisdiction, in an action relating to domestic violence, has ordered the person who committed domestic violence against the tenant or immediate family member of the tenant to vacate the dwelling unit, upon issuance of the order, neither the landlord nor the tenant shall have any duty to:

- (1) Allow the person access to the dwelling unit, unless the person is accompanied by a law enforcement officer; or
- (2) Provide the person with keys to the dwelling unit.

(b) If the person is a party to the rental agreement, then upon issuance of the court order requiring the person to vacate the dwelling unit, the person's interest in the tenancy shall terminate, and the landlord and tenant shall be entitled to any actual damages resulting from that termination.

(c) Pursuant to section 521-80, the landlord shall return security deposits recoverable under section 521-44 and recoverable prepaid rent following the termination of the rental agreement and the surrender of the dwelling unit to the landlord.

(d) The tenant shall not be required to pay any additional rent, fees, or security deposit because of the termination of the person's interest as a tenant of the dwelling unit.

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**Temporary restraining order**

HAW. REV. STAT. § 586-4

(a) Upon petition to a family court judge, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time the order is granted, is a family or household member as defined in section 586-1 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence; or
- (3) Entering or visiting the protected party's residence.

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(c) The family court judge may issue the ex parte temporary restraining order orally, if the person being restrained is present in court.... Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence;
- (3) Entering or visiting the protected party's residence; or
- (4) Taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

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**Right to apply for relief**

HAW. REV. STAT. § 586-8

(a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.

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# IDAHO

Idaho has enacted the following laws regarding survivors' housing rights:

- Protection excluding any party from a shared dwelling. IDAHO CODE ANN. § 39-6308.
- Address confidentiality program. IDAHO CODE ANN. §§ 19-5701 - 19-5708.
- Records exempt from disclosure. IDAHO CODE ANN. § 74-106 (25), (27).
- Protection order for malicious harassment. IDAHO CODE ANN. § 18-7902.

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## **Ex parte temporary protection order**

### IDAHO CODE ANN. § 39-6308

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary protection order based upon the affidavit submitted or otherwise shall hold a hearing which may be ex parte on the day a petition is filed or on the following judicial day to determine whether the court should grant an ex parte temporary protection order, pending a full hearing, and grant such other relief as the court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic violence;
- (b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;

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- (f) Restraining the respondent from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, molesting, interfering with or menacing the petitioner or the minor children whose custody is awarded to the petitioner; and/or

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**Address Confidentiality for Victims of Violence: Purpose**IDAHO CODE ANN. § 19-5701

The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault or malicious harassment frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

**Address Confidentiality for Victims of Violence: Definitions**IDAHO CODE ANN. § 19-5702

Unless the context clearly requires otherwise, for purposes of this chapter the following terms have the following meanings:

(1) "Address" means a residential street address of an individual as specified on the individual's application to be a program participant under this chapter.

(2) "Program participant" means:

(a) An individual who has obtained an order of protection pursuant to section 39-6306, Idaho Code, after a hearing for which the defendant in the proceeding received notice; or

(b) An individual who has obtained a certification from a prosecutor stating that the individual is the victim of a crime in which the defendant has been charged pursuant to section 18-918, 18-1506, 18-1508, 18-1508A, 18-6101, 18-7902, 18-7905 or 18-7906, Idaho Code, or in which the defendant is charged with attempt to commit any of the foregoing crimes.

**Address confidentiality program--Application--Certification**IDAHO CODE ANN. § 19-5703

(1) An adult person, a parent or a guardian acting on behalf of a minor, or a guardian appointed pursuant to section 15-5-304, Idaho Code, acting on behalf of an incapacitated person, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe:

(i) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, stalking, rape or malicious harassment, or any other crime listed in section 19-5702(2)(b), Idaho Code; and

(ii) That the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A certified copy of a domestic protection order issued pursuant to section 39-6306, Idaho Code, or a certified statement from a prosecutor stating that the individual is a victim of crime as provided in subsection (2)(b) of section 19-5702, Idaho Code.

(c) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail.

(d) The mailing address where the applicant can be contacted by the secretary of state, and the telephone number or numbers where the applicant can be called by the secretary of state.

(e) The address or addresses that the applicant requests not be disclosed.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or invalidated before that date. The application may be renewed at the end of four (4) years.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under section 18-5414, Idaho Code, or other applicable statutes.

### **Address Confidentiality for Victims of Violence: Certification cancellation**

#### IDAHO CODE ANN. § 19-5704

(1) The secretary of state may cancel a program participant's certification if there is a change in the name or residential address from that listed on the application, unless the program participant provides the secretary of state with seven (7) days' prior notice of the change of name or address.

(2) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(3) The secretary of state may cancel certification of a program participant who applies using false information.

**Address Confidentiality for Victims of Violence: Use of designated address**

IDAHO CODE ANN. § 19-5705

(1) A program participant may request that state and local agencies use the address designated by the secretary of state as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the agency shows that:

- (a) The agency has a bona fide statutory or administrative requirement for the use of a program participant's address which would otherwise be confidential under this chapter;
- (b) The program participant's address will be used only for those statutory and administrative purposes; and
- (c) The agency takes reasonable precautions to protect the confidentiality of the program participant.

(2) A program participant may use the address designated by the secretary of state as his or her work address.

(3) The office of the secretary of state shall forward all first class mail to the appropriate program participant.

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**Records exempt from disclosure – Personnel records, personal information, health records, professional discipline**

IDAHO CODE ANN. § 74-106(25), (27)

The following records are exempt from disclosure:

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(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

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(25) The physical voter registration application on file in the county clerk's office; however, a

redacted copy of said application shall be made available consistent with the requirements of this section. Information from the voter registration application maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon a showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

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(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency; or
- (b) If directed by a court order, to a person identified in the order.

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**Malicious Harassment – Action for Protection**

IDAHO CODE ANN. §18-7902

It shall be unlawful for any person, maliciously and with the specific intent to intimidate or harass another person because of that person's race, color, religion, ancestry, or national origin, to:

- (a) Cause physical injury to another person; or
- (b) Damage, destroy, or deface any real or personal property of another person; or
- (c) Threaten, by word or act, to do the acts prohibited if there is reasonable cause to believe that any of the acts described in subsections (a) and (b) of this section will occur.

For purposes of this section, "deface" shall include, but not be limited to, cross-burnings or the placing of any word or symbol commonly associated with racial, religious or ethnic terrorism on the property of another person without his or her permission.

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# ILLINOIS

Illinois has enacted the following laws regarding survivors' housing rights:

- Eviction defense for victims of domestic violence, dating violence, stalking, or sexual violence. 735 ILL. COMP. STAT. ANN. 5/9-106.2.
- Ordinances penalizing tenants who contact police or other emergency services prohibited. 65 ILL. COMP. STAT. ANN. 5/1-2-1.5; 55 ILL. COMP. STAT./COUNTIES CODE 5/5-1005.10.
- Utility deposit deferral. 220 ILL. COMP. STAT. ANN. 5/8-201.6.
- Safe Homes Act. 765 ILL. COMP. STAT. ANN. 750/1-750/35, which includes:
  - Early lease termination. 765 ILL. COMP. STAT. ANN. 750/15.
  - Lock changes. 765 ILL. COMP. STAT. ANN. 750/20.
  - Nondisclosure, confidentiality, and privilege. 765 ILL. COMP. STAT. ANN. 750/27.

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## **Affirmative defense for violence; barring persons from property**

735 ILL. COMP. STAT. ANN. 5/9-106.2

(a) It shall be an affirmative defense to an action maintained under this Article IX if the court makes one of the following findings that the demand for possession is:

- (1) based solely on the tenant's, lessee's, or household member's status as a victim of domestic violence or sexual violence as those terms are defined in Section 10 of the Safe Homes Act, stalking as that term is defined in the Criminal Code of 2012, or dating violence;
- (2) based solely upon an incident of actual or threatened domestic violence, dating violence, stalking, or sexual violence against a tenant, lessee, or household member;
- (3) based solely upon criminal activity directly relating to domestic violence, dating violence, stalking, or sexual violence engaged in by a member of a tenant's or lessee's household or any guest or other person under the tenant's, lessee's, or household member's control, and against the tenant, lessee, or household member; or
- (4) based upon a demand for possession pursuant to subsection (f) where the tenant, lessee, or household member who was the victim of domestic violence, sexual violence, stalking, or dating violence did not knowingly consent to the barred person entering the premises or a valid court order permitted the barred person's entry onto the premises.

(b) When asserting the affirmative defense, at least one form of the following types of evidence shall be provided to support the affirmative defense: medical, court, or police records documenting the violence or a statement from an employee of a victim service organization or from a medical professional from whom the tenant, lessee, or household member has sought services.

(c) Nothing in subsection (a) shall prevent the landlord from seeking possession solely against a tenant, household member, or lessee of the premises who perpetrated the violence referred to in subsection (a).

(d) Nothing in subsection (a) shall prevent the landlord from seeking possession against the entire household, including the tenant, lessee, or household member who is a victim of domestic violence, dating violence, stalking, or sexual violence if the tenant, lessee, or household member's continued tenancy would pose an actual and imminent threat to other tenants, lessees, household members, the landlord or their agents at the property.

(e) Nothing in subsection (a) shall prevent the landlord from seeking possession against the tenant, lessee, or household member who is a victim of domestic violence, dating violence, stalking, or sexual violence if that tenant, lessee, or household member has committed the criminal activity on which the demand for possession is based.

(f) A landlord shall have the power to bar the presence of a person from the premises owned by the landlord who is not a tenant or lessee or who is not a member of the tenant's or lessee's household. A landlord bars a person from the premises by providing written notice to the tenant or lessee that the person is no longer allowed on the premises. That notice shall state that if the tenant invites the barred person onto any portion of the premises, then the landlord may treat this as a breach of the lease, whether or not this provision is contained in the lease. Subject to paragraph (4) of subsection (a), the landlord may evict the tenant.

(g) Further, a landlord may give notice to a person that the person is barred from the premises owned by the landlord. A person has received notice from the landlord within the meaning of this subsection if he has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A-3 of the Code of Criminal Procedure of 1963 granting remedy (2) of subsection (b) of Section 112A-14 of that Code, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof. Any person entering the landlord's premises after such notice has been given shall be guilty of criminal trespass to real property as set forth in Section 21-3 of the Criminal Code of 2012. After notice has been given, an invitation to the person to enter the premises shall be void if made by a tenant, lessee, or member of the tenant's or lessee's household and shall not constitute a valid invitation to come upon the premises or a defense to a criminal trespass to real property.

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**Ordinances penalizing tenants who contact police or other emergency services prohibited.**65 ILL. COMP. STAT. ANN. 5/1-2-1.5

(a) Definitions. As used in this Section:

“Contact” includes any communication made by a tenant, landlord, guest, neighbor, or other individual to police or other emergency services.

“Criminal Activity” means a violation of the Criminal Code of 2012, of the Cannabis Control Act, of the Illinois Controlled Substances Act, or of the Methamphetamine Control and Community Protection Act.

“Disability” means, with respect to a person:

- (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities;
- (2) a record of having such impairment; or
- (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in the federal Controlled Substances Act, 21 U.S.C. 802.

“Domestic violence”, “landlord”, “sexual violence”, and “tenant” have the meanings provided under subsection (a) of Section 10 of the Safe Homes Act.

“Dwelling unit” has the meaning provided under subsection (a) of Section 15 of the Landlord and Tenant Act.

“Penalizes” includes, but is not limited to:

- (1) assessment of fees or fines;
- (2) revocation, suspension, or nonrenewal of any license or permit required for the rental or occupancy of any dwelling unit;
- (3) termination or denial of a subsidized housing contract or housing subsidy; and
- (4) terminating the nonrenewal of a residential lease agreement.

“Subsidized housing” has the meaning provided under subsection (a) of Section 9-119 of the Code of Civil Procedure.

(b) Protection.

(1) No municipality shall enact or enforce an ordinance or regulation that penalizes tenants or landlords based on:

- (A) contact made to the police or other emergency services, if (i) the contact was made with the intent to prevent or respond to domestic violence or sexual violence; (ii) the intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (iii) the contact was made by,

on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;

(B) an incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in that dwelling unit or on the premises; or

(C) criminal activity or a local ordinance violation occurring in the dwelling unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party against a tenant, household member, guest or other party.

(2) Nothing with respect to the Section: (A) limits enforcement of Section 15.2 of the Emergency Telephone System Act, Article 26 of the Criminal Code of 2012, or Article IX of the Code of Civil Procedure; (B) prohibits municipalities from enacting or enforcing ordinances to impose penalties on the basis of the underlying criminal activity or a local ordinance violation not covered by paragraph (1) of subsection (b) of this Section and to the extent otherwise permitted by existing State and federal law; or (C) limits or prohibits the eviction of or imposition of penalties against the perpetrator of the domestic violence, sexual violence, or other criminal activity.

(c) Remedies. If a municipality enacts or enforces an ordinance or regulation against a tenant or landlord in violation of subsection (b), the tenant or landlord may bring a civil action to seek any one or more of the following remedies:

- (1) an order invalidating the ordinance or regulation to the extent required to bring the ordinance or regulation into compliance with the requirements of subsection (b);
- (2) compensatory damages;
- (3) reasonable attorney fees and court costs; or
- (4) other equitable relief as the court may deem appropriate and just.

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### **Ordinances penalizing tenants who contact police or other emergency services prohibited.**

65 ILL. COMP. STAT./COUNTIES CODE 5/5-1005.10.

(a) Definitions. As used in this Section:

“Contact” includes any communication made by a tenant, landlord, guest, neighbor, or other individual to police or other emergency services.

“Criminal activity” means a violation of the Criminal Code of 2012, of the Cannabis Control Act, of the Illinois Controlled Substances Act, or of the Methamphetamine Control and Community Protection Act.

“Disability” means, with respect to a person:

- (1) a physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) a record of having such an impairment; or
- (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in the federal Controlled Substances Act, 21 U.S.C. 802.

“Domestic violence”, “landlord”, “sexual violence”, and “tenant” have the meanings provided under Section 10 of the Safe Homes Act.

“Dwelling unit” has the meaning provided under subsection (a) of Section 15 of the Landlord and Tenant Act.

“Penalizes” includes, but is not limited to:

- (1) assessment of fees or fines;
- (2) revocation, suspension, or nonrenewal of any license or permit required for the rental or occupancy of any dwelling unit;
- (3) termination or denial of a subsidized housing contract or housing subsidy; and
- (4) termination or nonrenewal of a residential lease agreement.

“Subsidized housing” has the meaning provided under subsection (a) of Section 9-119 of the Code of Civil Procedure.

(b) Protection.

(1) No county shall enact or enforce an ordinance or regulation that penalizes tenants or landlords based on:

(A) contact made to police or other emergency services, if (i) the contact was made with the intent to prevent or respond to domestic violence or sexual violence; (ii) the intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (iii) the contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;

(B) an incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the premises; or

(C) criminal activity or a local ordinance violation occurring in the dwelling unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest, or other party.

(2) Nothing with respect to this Section: (A) limits enforcement of Section 15.2 of the Emergency Telephone System Act, Article 26 of the Criminal Code of 2012, or Article

IX of the Code of Civil Procedure; (B) prohibits counties from enacting or enforcing ordinances to impose penalties on the basis of the underlying criminal activity or a local ordinance violation not covered by paragraph (1) of subsection (b) of this Section and to the extent otherwise permitted by existing State and federal law; or (C) limits or prohibits the eviction of or imposition of penalties against the perpetrator of the domestic violence, sexual violence, or other criminal activity.

(c) Remedies. If a county enacts or enforces an ordinance or regulation against a tenant or landlord in violation of subsection (b), the tenant or landlord may bring a civil action to seek any one or more of the following remedies:

- (1) an order invalidating the ordinance or regulation to the extent required to bring the ordinance or regulation into compliance with the requirements of subsection (b);
- (2) compensatory damages;
- (3) reasonable attorney fees and court costs; or
- (4) other equitable relief as the court may deem appropriate and just.

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**Utility Deposit Deferral for Victims of Domestic Violence**

220 ILL. COMP. STAT. ANN. 5/8-201.6

For the purposes of this Section, “domestic violence” means abuse by a family or household member, as “abuse” and “family or household members” are defined in Section 103 of the Illinois Domestic Violence Act of 1986.

A utility shall defer the utility’s initial credit and deposit requirements for a period of 60 days for a residential customer or applicant who is a victim of domestic violence. To be eligible for the deferral under this Section, the domestic violence must:

- (1) have been the basis for the issuance of an order of protection or
- (2) be certified by treating medical personnel, law enforcement personnel, a State’s Attorney, the Attorney General, or a domestic violence shelter. The certification letter must be printed on the certifying entity’s letterhead or accompanied by a letter on the certifying entity’s letterhead that identifies the certifying individual.

**Safe Homes Act**

765 ILL. COMP. STAT. ANN. 750/1

This Act may be cited as the Safe Homes Act.

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**Purpose**

765 ILL. COMP. STAT. ANN. 750/5

The purpose of this Act is to promote the State’s interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence and their families to flee existing dangerous housing in order to leave violent or abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences thereof.

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**Definitions**

765 ILL. COMP. STAT. ANN. 750/10

For purposes of this Act:

“Domestic violence” means “abuse” as defined in Section 103 of the Illinois Domestic Violence Act of 1986 by a “family or household member” as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

“Landlord” means the owner of a building or the owner's agent with regard to matters concerning landlord's leasing of a dwelling.

“Sexual violence” means any act of sexual assault, sexual abuse, or stalking of an adult or minor child, including but not limited to non-consensual sexual conduct or non-consensual sexual penetration as defined in the Civil No Contact Order Act and the offenses of stalking, aggravated stalking, criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, and aggravated criminal sexual abuse as those offenses are described in the Criminal Code of 2012.

“Tenant” means a person who has entered into an oral or written lease with a landlord whereby the person is the lessee under the lease.

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**Affirmative defense**

765 ILL. COMP. STAT. ANN. 750/15

(a) In any action brought by a landlord against a tenant to recover rent for breach of lease, a tenant shall have an affirmative defense and not be liable for rent for the period after which a tenant vacates the premises owned by the landlord, if by preponderance of the evidence, the court finds that:

(1) at the time that the tenant vacated the premises, the tenant or a member of tenant's household was under a credible imminent threat of domestic or sexual violence at the premises; and

(2) the tenant gave written notice to the landlord prior to or within 3 days of vacating the premises that the reason for vacating the premises was because of a credible imminent threat of domestic or sexual violence against the tenant or a member of the tenant's household.

(b) In any action brought by a landlord against a tenant to recover rent for breach of lease, a tenant shall have an affirmative defense and not be liable for rent for the period after which the tenant vacates the premises owned by the landlord, if by preponderance of the evidence, the court finds that:

(1) a tenant or a member of tenant's household was a victim of sexual violence on the premises that is owned or controlled by a landlord and the tenant has vacated the premises as a result of the sexual violence; and

(2) the tenant gave written notice to the landlord prior to or within 3 days of vacating the premises that the reason for vacating the premises was because of the sexual violence against the tenant or member of the tenant's household, the date of the sexual violence, and that the tenant provided at least one form of the following types of evidence to the landlord supporting the claim of the sexual violence: medical, court or police evidence of sexual violence; or statement from an employee of a victim services or rape crisis organization from which the tenant or a member of the tenant's household sought services; and

(3) the sexual violence occurred not more than 60 days prior to the date of giving the written notice to the landlord, or if the circumstances are such that the tenant cannot reasonably give notice because of reasons related to the sexual violence, such as hospitalization or seeking assistance for shelter or counseling, then as soon thereafter as practicable. Nothing in this subsection (b) shall be construed to be a defense against an action in forcible entry and detainer for failure to pay rent before the tenant provided notice and vacated the premises.

(c) Nothing in this Act shall be construed to be a defense against an action for rent for a period of time before the tenant vacated the landlord's premises and gave notice to the landlord as required in subsection (b).

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**Change of locks**765 ILL. COMP. STAT. ANN. 750/20

(a)(1) Written leases. Upon written notice from all tenants who have signed as lessees under a written lease, the tenants may request that a landlord change the locks of the dwelling unit in which they live if one or more of the tenants reasonably believes that one of the tenants or a member of tenant's household is under a credible imminent threat of domestic or sexual violence at the premises. If the threat of violence is from a person who is not a lessee under the written lease, notice to the landlord requesting a change of locks shall be accompanied by at least one form of the following types of evidence to support a claim of domestic or sexual violence: medical, court or police evidence of domestic or sexual violence; or a statement from an employee of a victim services, domestic violence, or rape crisis organization from which the tenant or a member of the tenant's household sought services. If the threat of violence is from a person who is a lessee under a written lease, notice to the landlord requesting a change of locks shall be accompanied by a plenary order of protection pursuant to Section 219 of the Illinois Domestic Violence Act of 1986 or Section 112A-19 of the Code of Criminal Procedure of 1963, or a plenary civil no contact order pursuant to Section 215 of the Civil No Contact Order Act, granting the tenant exclusive possession of the premises. The tenant requesting a change of locks shall not be required to obtain written notice from the person posing a threat who is a lessee under the written lease, provided that the notice is accompanied by a plenary order of protection or a plenary civil no contact order granting the tenant exclusive possession of the premises.

(2) Oral leases. Upon written notice from all tenants who are lessees under an oral lease, the tenants may request that a landlord change the locks of the dwelling unit in which they live if one or more of the tenants reasonably believes that one of the tenants or a member of tenant's household is under a credible imminent threat of domestic or sexual violence at the premises. Notice to the landlord requesting a change of locks shall be accompanied by a plenary order of protection pursuant to Section 219 of the Illinois Domestic Violence Act of 1986 or Section 112A-19 of the Code of Criminal Procedure of 1963, or a plenary civil no contact order pursuant to Section 215 of the Civil No Contact Order Act, granting the tenant exclusive possession of the premises. The tenant requesting a change of locks shall not be required to obtain written notice from the person posing a threat who is a lessee under the oral lease, provided that the notice is accompanied by a plenary order of protection or a plenary civil no contact order granting the tenant exclusive possession of the premises.

(b) Once a landlord has received notice of a request for change of locks and has received one form of evidence referred to in Section (a) above, the landlord shall, within 48 hours, change the locks or give the tenant the permission to change the locks. If the landlord changes the locks, the landlord shall make a good faith effort to give a key to the new locks to the tenant as soon as possible or not more than 48 hours of the locks being changed.

(1) The landlord may charge a fee for the expense of changing the locks. That fee must not exceed the reasonable price customarily charged for changing a lock.

(2) If a landlord fails to change the locks within 48 hours after being provided with the notice and evidence referred to in (a) above, the tenant may change the locks without the landlord's permission. If the tenant changes the locks, the tenant shall make a good faith effort to give a key to the new locks to the landlord within 48 hours of the locks being changed. In the case where a tenant changes the locks without the landlord's permission, the tenant shall do so in a workmanlike manner with locks of similar or better quality than the original lock.

(c) The landlord who changes locks or allows the change of locks under this Act shall not be liable to any third party for damages resulting from a person being unable to access the dwelling.

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**Penalty for violation of lock-change provisions**

765 ILL. COMP. STAT. ANN. 750/25

(a) If a landlord takes action to prevent the tenant who has complied with Section 20 of this Act from changing his or her locks, the tenant may seek a temporary restraining order, preliminary injunction, or permanent injunction ordering the landlord to refrain from preventing the tenant from changing the locks. A tenant who successfully brings an action pursuant to this Section may be awarded reasonable attorney's fees and costs.

(b) A tenant who changes locks and does not make a good faith effort to provide a copy of a key to the landlord within 48 hours of the tenant changing the locks, shall be liable for any damages to the dwelling or the building in which the dwelling is located that could have been prevented had landlord been able to access the dwelling unit in the event of an emergency.

(b-1) A landlord who changes the locks and does not make a good faith effort to provide a copy of a key to the tenant within 48 hours of the landlord changing the locks shall be liable for any damages to the tenant incurred as a result of not having access to his or her unit.

(c) The remedies provided to landlord and tenant under this Section 25 shall be sole and exclusive for violations of the lock-change provisions of this Act.

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**Nondisclosure, confidentiality, and privilege**

765 ILL. COMP. STAT. ANN. 750/27

(a) A landlord may not disclose to a prospective landlord (1) that a tenant or a member of tenant's household exercised his or her rights under the Act, or (2) any information provided by the tenant or a member of tenant's household in exercising those rights.

(b) The prohibition on disclosure under subsection (a) shall not apply in civil proceedings brought under this Act, or if such disclosure is required by law.

(c) A tenant or a member of tenant’s household, who is the victim of domestic or sexual violence or is the parent or legal guardian of the victim of domestic or sexual violence, may waive the prohibition on disclosure under subsection (a) by consenting to the disclosure in writing.

(d) Furnishing evidence to support a claim of domestic or sexual violence against a tenant or a member of tenant's household pursuant to Section 15 or 20 shall not waive any confidentiality or privilege that may exist between the victim of domestic or sexual violence and a third party.

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**Nondisclosure violation penalty**

765 ILL. COMP. STAT. ANN. 750/29

A landlord who, in violation of Section 27, discloses that a tenant has exercised his or her rights under the Act, or discloses any information provided by the tenant in exercising those rights, shall be liable for actual damages up to \$2,000 resulting from the disclosure. A tenant who successfully brings an action pursuant to this Section may be awarded reasonable attorney’s fees and costs.

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**Prohibition of waiver or modification**

765 ILL. COMP. STAT. ANN. 750/30

The provisions of this Act may not be waived or modified in any lease or separate agreement.

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**Public housing excluded**

765 ILL. COMP. STAT. ANN. 750/35

This Act does not apply to public housing, assisted under the United States Housing Act of 1937, as amended, 42 U.S.C. 1437 et seq., and its implementing regulations, with the exception of the tenant-based Housing Choice Voucher program. Public housing includes dwelling units in mixed-finance projects that are assisted through a public housing authority’s capital, operating, or other funds.

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# INDIANA

- Indiana has enacted the following laws regarding survivors’ housing rights:
  - Retaliation against tenant prohibited. IND. CODE ANN. §§ 32-31-9-1—32-31-9-8.
  - Lock changes. IND. CODE ANN. §§ 32-31-9-9, 32-31-9-10, 32-31-9-11.
  - Early lease termination. IND. CODE ANN. § 32-31-9-12.
  - Rights and obligations of other tenants under rental agreement unaffected; security deposits. IND. CODE ANN. § 32-31-9-13.
  - Liability of perpetrator. IND. CODE ANN. § 32-31-9-14.
  - Landlord not liable for acts of perpetrator or third party. IND. CODE ANN. § 32-31-9-15.
  - Address confidentiality program. IND. CODE ANN. §§ 5-26.5-1-2, *et seq.*
  - Restricted addresses. IND. CODE ANN. §§ 36-1-8.5-1, *et seq.*

.....

## **Application of chapter**

### IND. CODE ANN. § 32-31-9-1

Sec. 1. (a) This chapter applies only to a rental agreement for a dwelling unit that is entered into or renewed after June 30, 2007.

(b) This chapter applies to a landlord or tenant only with respect to a rental agreement for a dwelling unit that is entered into or renewed after June 30, 2007.

(c) A waiver of this chapter by a landlord or current or former tenant, by contract or otherwise, is void.

...

## **“Applicable offense” defined**

### IND. CODE ANN. § 32-31-9-3

Sec. 3. As used in this chapter, “applicable offense” refers to any of the following:

(1) A crime involving domestic or family violence (as defined in IC 35-31.5-2-76).

(2) A sex offense under IC 35-42-4.

(3) Stalking under IC 35-45-10.

**“Applicant” defined**

IND. CODE ANN. § 32-31-9-4

Sec. 4. As used in this chapter, “applicant” means an individual who applies to a landlord to enter into a lease of a dwelling unit.

**“Dwelling unit” defined**

IND. CODE ANN. § 32-31-9-5

Sec. 5. As used in this chapter, “dwelling unit” has the meaning set forth in IC 32-31-5-3.

**“Perpetrator” defined**

IND. CODE ANN. § 32-31-9-6

Sec. 6. As used in this chapter, “perpetrator” means an individual who:

(1) has been convicted of; or

(2) for purposes of a civil protection order, has been determined to have committed;  
an applicable offense.

**“Protected individual” defined**

IND. CODE ANN. § 32-31-9-7

Sec. 7. As used in this chapter, “protected individual” means a tenant or applicant:

(1) who is:

(A) a victim; or

(B) an alleged victim;

of an applicable offense; and

(2) who has received either of the following:

(A) A civil order for protection issued or recognized by a court under IC 34-26-5 that restrains a perpetrator from contact with the individual.

(B) A criminal no contact order that restrains a perpetrator from contact with the individual.

**Retaliation against tenant prohibited**

IND. CODE ANN. § 32-31-9-8

Sec. 8. (a) A landlord may not terminate a lease, refuse to renew a lease, refuse to enter into a lease, or retaliate against a tenant solely because:

- (1) a tenant;
- (2) an applicant; or
- (3) an individual who is a member of the tenant’s or applicant’s household;

is a protected individual.

(b) A landlord may not refuse to enter into a lease with an applicant or retaliate against a tenant solely because:

- (1) the tenant;
- (2) the applicant; or
- (3) an individual who is a member of the tenant’s or applicant’s household;

has terminated a rental agreement as a protected individual under section 12 of this chapter.

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**Change of tenant’s locks; outside perpetrators**

IND. CODE ANN. § 32-31-9-9

Sec. 9. (a) This section applies if a perpetrator who is restrained from contact with the tenant referred to in subsection (b) under an order referred to in section 7(2)(A) or 7(2)(B) of this chapter is not a tenant of the same dwelling unit as the tenant referred to in subsection (b).

(b) A landlord shall change the locks of a tenant's dwelling unit upon the written request of the tenant not later than forty-eight (48) hours after the tenant gives the landlord a copy of a court order referred to in section 7(2) of this chapter, and shall give a key to the new locks to the tenant.

**Change of tenant’s locks; resident perpetrators**

IND. CODE ANN. § 32-31-9-10

Sec. 10. (a) This section applies if the perpetrator who is restrained from contact with the tenant referred to in subsection (b) under an order referred to in section 7(2)(A) or 7(2)(B) of this chapter is a tenant of the same dwelling unit as the tenant referred to in subsection (b).

(b) A landlord shall change the locks of a tenant’s dwelling unit, upon the written request of the tenant, not later than twenty-four (24) hours after the tenant provides the landlord with a copy of a court order referred to in section 7(2) of this chapter restraining the perpetrator referred to in subsection (a) from contact with the tenant, and shall give a key to the new locks to the tenant.

(c) Unless the court order provided to the landlord under subsection (b) allows the perpetrator to return to the dwelling unit to retrieve the perpetrator's personal property, a landlord to whom subsection (b) applies may not by any act provide the perpetrator access to the dwelling unit.

(d) A landlord to whom subsection (b) applies is immune from civil liability for:

- (1) excluding the perpetrator from the dwelling unit under a court order; or
- (2) loss of use of or damage to personal property while the personal property is present in the dwelling unit.

(e) A perpetrator who has been excluded from a dwelling unit under this section remains liable under the lease with all other tenants of the dwelling unit for rent or damages to the dwelling unit as provided in the lease.

**Change of tenant’s locks; reimbursement of expenses**

IND. CODE ANN. § 32-31-9-11

Sec. 11. (a) A tenant who provides notice or a copy of a court order under section 9 or 10 of this chapter shall reimburse the landlord for the actual expense incurred by the landlord in changing the locks.

(b) If a landlord fails to change the locks within the time set forth in section 9(b) or 10(b) of this chapter, the tenant may change the locks without the landlord’s permission, and the landlord shall reimburse the tenant for the actual expense incurred by the tenant in changing the locks.

(c) If a tenant changes the locks of the tenant’s dwelling unit under subsection (b), the tenant shall give a key to the new locks to the landlord not later than twenty-four (24) hours after the locks are changed.

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**Termination of lease; notice; liability for rent and expenses**IND. CODE ANN. § 32-31-9-12

Sec. 12. (a) A protected individual who is a tenant may terminate the protected individual's rights and obligations under a rental agreement by providing the landlord with a written notice of termination in compliance with this section.

(b) A protected individual must give written notice of termination under this section to the landlord at least thirty (30) days before the termination date stated in the notice.

(c) The written notice required by this section must include:

(1) a copy of:

(A) a civil order for protection issued or recognized by a court under IC 34-26-5 that restrains a perpetrator from contact with the protected individual; or

(B) a criminal no contact order that restrains a perpetrator from contact with the protected individual; and

(2) if the protected individual is a victim of domestic violence or sexual assault, a copy of a safety plan, which must satisfy the following:

(A) The plan must be dated not more than thirty (30) days before the date on which the protected individual provides the written notice to the landlord under this section.

(B) The plan must be provided by an accredited domestic violence or sexual assault program.

(C) The plan must recommend relocation of the protected individual.

(d) If a protected individual's rights and obligations under a rental agreement are terminated under this section, the protected individual is liable for the rent and other expenses due under the rental agreement:

(1) prorated to the effective date of the termination; and

(2) payable at the time when payment of rent would have been required under the rental agreement.

A protected individual whose rights and obligations under a rental agreement are terminated under this section is not liable for any other rent or fees that would be due only because of the early termination of the protected individual's rights and obligations under the rental agreement.

If a protected individual terminates the rental agreement at least fourteen (14) days before the protected individual would first have the right to occupy the dwelling unit under the lease, the individual is not subject to any damages or penalties.

(e) Notwithstanding section 13 of this chapter, a protected individual is entitled to deposits, returns, and other refunds as if the tenancy terminated by expiring under the terms of the rental agreement.

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**Rights and obligations of other tenants under rental agreement unaffected; security deposits**

IND. CODE ANN. § 32-31-9-13

Sec. 13. Notwithstanding:

(1) the termination of a protected individual’s rights and obligations under a rental agreement under this chapter; or

(2) the exclusion of a perpetrator of an applicable offense from a dwelling unit under this chapter;

the rights and obligations of other adult tenants of the dwelling unit under the rental agreement continue unaffected. A landlord is not obligated to return or account for any security deposit associated with the rental agreement until forty-five (45) days after the tenancy of all tenants has terminated.

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**Lease obligations binding on excluded tenant perpetrator**

IND. CODE ANN. § 32-31-9-14

Sec. 14. A perpetrator who is a tenant and who is excluded from a dwelling unit under a court order remains liable under the lease with other tenants of the dwelling unit for rent and for the cost of damages to the dwelling unit.

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**Landlord not liable for acts of perpetrator or third party**

IND. CODE ANN. § 32-31-9-15

Sec. 15. This chapter does not make a landlord or the agent of a landlord liable for the actions of a perpetrator or a third party.

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**Address confidentiality program: Definitions; “Address”**

IND. CODE ANN. § 5-26.5-1-2

Sec. 2. “Address” means:

- (1) a residential street address;
- (2) a school address; or
- (3) a work address;

of an individual as specified on an individual's application to be a program participant.

**Address confidentiality program: Definitions; “Domestic violence”**

IND. CODE ANN. § 5-26.5-1-3

Sec. 3. “Domestic violence” includes conduct that is an element of an offense under IC 35-42 or a threat to commit an act described in IC 35-42 by a person against a person who:

- (1) is or was a spouse of;
- (2) is or was living as if a spouse of;
- (3) has a child in common with;
- (4) is a minor subject to the control of; or
- (5) is an incapacitated individual under the guardianship or otherwise subject to the control of;

the other person regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution.

...

**Address confidentiality program: Definitions; “Protective order”**

IND. CODE ANN. § 5-26.5-1-7

Sec. 7. “Protective order” means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction.

**Address confidentiality program: Definitions; “Sexual assault”**IND. CODE ANN. § 5-26.5-1-8

Sec. 8. For purposes of IC 5-26.5-2-2, “sexual assault” means conduct that constitutes:

(1) a misdemeanor or felony under IC 35-42-4 (sex crimes) or IC 35-46-1-3 (incest);

(2) a misdemeanor or felony under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

**Address confidentiality program: Definitions; “Stalking”**IND. CODE ANN. § 5-26.5-1-9

Sec. 9. For purposes of IC 5-26.5-2-2, “stalking” means conduct that constitutes:

(1) a crime under IC 35-45-10-5 (stalking);

(2) a misdemeanor or felony under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

**Address confidentiality program: Eligible applicants**IND. CODE ANN. § 5-26.5-2-1

Sec. 1. The following individuals may apply to the office of the attorney general to have an address designated by the office of the attorney general serve as the individual's address or as the address of a minor or an incapacitated individual:

- (1) An individual who is at least eighteen (18) years of age.
- (2) A parent or guardian acting on behalf of a minor.
- (3) A guardian acting on behalf of an incapacitated individual.
- (4) An emancipated minor.

**Address confidentiality program: Approval of applications**IND. CODE ANN. § 5-26.5-2-2

Sec. 2. The office of the attorney general shall approve an application filed in the manner and on a form prescribed by the office of the attorney general if the application contains the following:

- (1) A sworn statement by the applicant that the applicant has good reason to believe that:
  - (A) the applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of:
    - (i) domestic violence;
    - (ii) sexual assault; or
    - (iii) stalking; and
  - (B) the applicant fears for:
    - (i) the applicant's safety; or
    - (ii) the safety of a minor or an incapacitated individual on whose behalf the application is made.
- (2) A copy of a valid protective order issued on behalf of the applicant or the minor or incapacitated individual on whose behalf the application is made.
- (3) A designation of the office of the attorney general as an agent of the applicant for the purpose of:

(A) service of process; and

(B) receipt of mail.

(4) The:

(A) mailing address; and

(B) telephone number;

where the applicant may be contacted by the office of the attorney general.

(5) The new address that the applicant requests not be disclosed because disclosure may increase the risk of domestic violence.

(6) The signature of the applicant and of any representative of an agency designated under IC 5-26.5-3-4 that assisted in the preparation of the application.

(7) The date the applicant signed the application.

**Address Confidentiality Program: Certification of participants; confidentiality**

IND. CODE ANN. § 5-26.5-2-3

Sec. 3. (a) Upon approving an application under section 2 of this chapter, the office of the attorney general shall certify the applicant as a program participant.

(b) Subject to IC 5-26.5-3-2, the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a record created under this chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1).

**Address Confidentiality Program: Use of work address**

IND. CODE ANN. § 5-26.5-2-4

Sec. 4. A program participant may use an address designated by the office of the attorney general as the program participant's work address.

**Address Confidentiality Program: Manner of application to vote; recording of address; confidentiality; voting methods**

IND. CODE ANN. § 5-26.5-2-5

Sec. 5. (a) The definitions set forth in IC 3-5-2 apply to this section.

(b) A program participant who is otherwise qualified to vote may apply to vote as provided in IC 3-7. The residence address of a program participant shall be recorded in the computerized system

as set forth in the voter registration application. However, the voter registration application of the program participant is confidential, and the name and residence address of the program participant shall not be printed on any poll list or made available through any electronic poll list provided to precinct election officers.

(c) The program participant may vote in person at the office of the county election board or may vote absentee by mail. The absentee ballot application of a program participant is confidential. The program participant's mailing address shall be recorded in the computerized system as the address of the office of the attorney general. Except as provided in this section, IC 3-11-4-6 applies to a program participant who wishes to vote by absentee ballot.

**Address Confidentiality Program: Expiration of certificate; renewal**

IND. CODE ANN. § 5-26.5-2-6

Sec. 6. Certification as a program participant expires two (2) years after the date on which the office of the attorney general certifies or renews the certification of the applicant as a program participant. A program participant may apply to renew the certification under section 7 of this chapter.

**Address Confidentiality Program: Notice of expiration; approval of renewal**

IND. CODE ANN. § 5-26.5-2-7

Sec. 7. (a) This section applies to a program participant whose certification expired under section 6 of this chapter.

(b) The office of the attorney general shall notify the program participant of the expiration date at least thirty (30) days before the expiration date.

(c) The office of the attorney general shall approve an application for renewal of certification filed in the manner and on a form prescribed by the office of the attorney general if the application contains the requirements set forth in section 2 of this chapter. However, a program participant who applies for renewal of certification under this section does not have to provide a copy of a valid protective order.

**Address Confidentiality Program: Perjury**

IND. CODE ANN. § 5-26.5-2-10

Sec. 10. A person who knowingly or intentionally:

(1) falsely attests in an application made under this chapter that disclosure of the applicant's address would endanger:

(A) the applicant's safety; or

(B) the safety of a minor or an incapacitated individual upon whose behalf the application is made; or

(2) provides false or incorrect information upon making an application under this chapter;

commits perjury. This section applies to an application for certification under section 2 of this chapter and to an application for renewal of certification under section 7 of this chapter.

**Address Confidentiality Program: Providing copy of name change decree to attorney general's office**

IND. CODE ANN. § 5-26.5-2-11

Sec. 11. A program participant who obtains a change of name under IC 34-28-2 shall provide a copy of the decree of the court changing the program participant's name to the office of the attorney general not more than thirty (30) days after the court enters the decree.

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**Address Confidentiality Program: Duties of the Office of the Attorney General; Disclosure of confidential information**

IND. CODE ANN. § 5-26.5-3-2

Sec. 2. The office of the attorney general may not disclose for public inspection or copying the name, address, telephone number, or any other identifying information relating to a program participant that is declared confidential under IC 5-26.5-2-3(b), as contained in a record created under this chapter, except as follows:

(1) When requested by a law enforcement agency, to the law enforcement agency.

(2) When directed by a court order, to a person identified in the order.

**Address Confidentiality Program: Duties of the Office of the Attorney General; Forwarding of mail**

IND. CODE ANN. § 5-26.5-3-3

Sec. 3. The office of the attorney general shall forward first class mail belonging to a program participant to the program participant.

**Address Confidentiality Program: Duties of the Office of the Attorney General;  
Designation of agencies providing counseling and shelter services**

IND. CODE ANN. § 5-26.5-3-4

Sec. 3. The office of the attorney general shall forward first class mail belonging to a program participant to the program participant.

Sec. 4. The office of the attorney general shall designate:

(1) state and local agencies; and

(2) nonprofit agencies;

that provide counseling and shelter services to victims of domestic violence to assist persons in applying to be program participants.

...

**Address Confidentiality Program: Revocation of Certification as a Program Participant;  
Change of address**

IND. CODE ANN. § 5-26.5-4-2

Sec. 2. The office of the attorney general may revoke a program participant's certification if the program participant changes the program participant's residential address from the address listed on the application, unless the program participant provides the office of the attorney general with written notice seven (7) days before the change of address.

**Address Confidentiality Program: Revocation of Certification as a Program Participant;  
Mail returned as undeliverable**

IND. CODE ANN. § 5-26.5-4-3

Sec. 3. The office of the attorney general may revoke the certification of a program participant if mail forwarded by the office of the attorney general to the program participant's address is returned as undeliverable.

**Address Confidentiality Program: Revocation of Certification as a Program Participant;  
Applicants using false information**

IND. CODE ANN. § 5-26.5-4-4

Sec. 4. The office of the attorney general shall revoke the certification of a program participant who has applied to the address confidentiality program using false information.

**Address Confidentiality Program: Revocation of Certification as a Program Participant; Termination or invalidity of protective order**

IND. CODE ANN. § 5-26.5-4-5

Sec. 5. Unless the program participant's certification has been renewed under IC 5-26.5-2-7, the office of the attorney general shall revoke the certification of a program participant if the attorney general determines that the protective order on which the certification is based has been terminated or otherwise invalidated.

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**Address Confidentiality Program: Agency Use of Designated Address; Acceptance of designated address; use of confidential address**

IND. CODE ANN. § 5-26.5-5-3

Sec. 3. (a) Whenever a state or local agency creates a new public record, the agency shall accept the address designated by the office of the attorney general as a program participant's substitute address unless the office of the attorney general determines that the agency is required by statute or administrative rule to use an address that would otherwise be confidential under this article.

(b) A state or local agency that uses a confidential address under subsection (a) may use the confidential address only for the purpose set out in the statute or administrative rule identified under subsection (a).

**Address Confidentiality Program: Agency Use of Designated Address; Use of designated address**

IND. CODE ANN. § 5-26.5-5-4

Sec. 4. If:

- (1) section 3 of this chapter does not apply; and
- (2) federal law does not specifically require that the person use an address that otherwise would be confidential under this chapter;

the person that receives a request under section 2 of this chapter shall use the address designated by the office of the attorney general as the program participant's address.

**Address Confidentiality Program: Agency Use of Designated Address; Notice of termination**

IND. CODE ANN. § 5-26.5-5-5

Sec. 5. A person who ceases to be a program participant is responsible for notifying persons who use the address designated by the office of the attorney general as the program participant’s address that the designated address is no longer the person's address.

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**Restricted addresses: Application**

IND. CODE ANN. § 36-1-8.5-1

Sec. 1. This chapter applies to all units. This chapter applies after June 30, 2014.

**Restricted addresses: “Covered person” defined**

IND. CODE ANN. § 36-1-8.5-2

Sec. 2. As used in this chapter, “covered person” means:

- (1) a judge;
- (2) a law enforcement officer;
- (3) a victim of domestic violence; or
- (4) a public official

...

**Restricted addresses: “Public property data base web site” defined**

IND. CODE ANN. § 36-1-8.5-5

Sec. 5. As used in this chapter, “public property data base web site” means an Internet web site that:

- (1) is available to the general public over the Internet;
- (2) does not require registration, subscription, or the creation of a user name and password to search the web site; and

- (3) connects a covered person's home address to the covered person's name, so that a search of the web site for the covered person's name discloses the covered person's home address.

**Restricted addresses: "Victim of domestic violence" defined**

IND. CODE ANN. § 36-1-8.5-6

Sec. 6. As used in this chapter, "victim of domestic violence" means a victim of domestic violence who is certified as a program participant in the address confidentiality program established by the attorney general under IC 5-26.5-2.

**Restricted addresses: Establishment of process to prevent illegal access to home address via website**

IND. CODE ANN. § 36-1-8.5-7

Sec. 7. (a) A covered person who wants to restrict access to the covered person's home address by means of a public property data base web site must submit a written request to the unit that operates the public property data base web site.

(b) A unit that operates a public property data base web site, directly or through a third party, shall establish a process to prevent a member of the general public from gaining access to the home address of a covered person by means of the public property data base web site.

(c) In establishing a process under subsection (b), a unit shall do all of the following:

- (1) Determine the forms of the written request to restrict and allow public access.
- (2) Specify any information or verification required by the unit to process the written request.
- (3) Determine which person or department of the unit will receive and process the request.
- (4) Provide a method under which a covered person is notified of the procedure to be used to restrict or allow disclosure of the home address of the covered person under this chapter.

(d) A unit may charge a covered person a reasonable fee to make a written request under this section.

**Restricted addresses: Request to allow access to address; form; contents**

IND. CODE ANN. § 36-1-8.5-9

Sec. 9. (a) This section applies to a covered person who has submitted a written request under section 7(a) of this chapter.

(b) A unit shall restrict access to the home address of a covered person until the covered person submits a written request to the unit to allow public access to the person's home address on the public property data base web site.

**Restricted addresses: Change of name; prevention of access to data; process fee**

IND. CODE ANN. § 36-1-8.5-10

Sec. 10. (a) This section applies to a covered person who:

(1) after submitting a written request under section 7(a) of this chapter, obtains a change of name under IC 34-28-2; and

(2) notifies the unit in writing of the name change.

(b) The unit shall prevent a search by the general public of the public property data base web site from disclosing or otherwise associating the covered person's home address with the covered person's former name and new name. The unit may charge a reasonable fee to process a name change under this section.

**Restricted addresses: Confidentiality of information**

IND. CODE ANN. § 36-1-8.5-11

Sec. 11. A written request, notification of name change, or any other information submitted to the unit by a covered person under this chapter is confidential under IC 5-14-3-4(a).

**Restricted addresses: Failure to timely restrict disclosure of address; civil liability**

IND. CODE ANN. § 36-1-8.5-12

Sec. 12. A unit may not be held civilly liable for failure to timely restrict disclosure of an address under this chapter unless the unit's act or omission constitutes gross negligence or willful or wanton misconduct.

.....

# IOWA

Iowa has enacted the following laws regarding survivors' housing rights:

- Relating to the right of residents, owners, tenants, and landlords to summon emergency assistance and preempting related local ordinances, rules, and regulations. IOWA CODE ANN. §§ 331.304, 364.3.
- An exception to the state's "clear and present danger" eviction law for tenants who have obtained a restraining order, sought law enforcement assistance, or have asked the person creating the danger not to return to the premises. IOWA CODE ANN. §§ 562A.27A, 562A.27B, 562B.25A, 562B.25B.
- Address confidentiality. IOWA CODE ANN. § 236.10.
- Possession of residence and exclusion of the restrained party. IOWA CODE ANN. § 236.5.
- Right to relief not affected if leaving household to avoid domestic abuse. IOWA CODE ANN. § 236.7.

.....

## **Procedural limitations on general county powers**

IOWA CODE ANN. § 331.304

If a county proposes to exercise any of the following powers, it shall do so in accordance with the following limitations:

...

11. A county shall not adopt or enforce any ordinance or regulation in violation of section 562A.27B or 562B.25B.

.....

## **Limitations of powers**

IOWA CODE ANN. § 364.3

The following are limitations upon the powers of a city:

...

11. A city shall not adopt or enforce any ordinance or regulation in violation of section 562A.27B or 562B.25B.

.....

**Termination for creating a clear and present danger to others**

IOWA CODE ANN. § 562A.27A

1. Notwithstanding section 562A.27 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, the landlord's employee or agent, or other persons on or within one thousand feet of the landlord's property, the landlord, after the service of a single three days' written notice of termination and notice to quit stating the specific activity causing the clear and present danger, and setting forth the language of subsection 3 which includes certain exemption provisions available to the tenant, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The petition shall state the incident or incidents giving rise to the notice of termination and notice to quit. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least three days prior to the hearing.

2. A clear and present danger to the health or safety of other tenants, the landlord, the landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

- a. Physical assault or the threat of physical assault.
- b. Illegal use of a firearm or other weapon, the threat to use a firearm or other weapon illegally, or possession of an illegal firearm.
- c. Possession of a controlled substance unless the controlled substance was obtained directly from or pursuant to a valid prescription or order by a licensed medical practitioner while acting in the course of the practitioner's professional practice. This paragraph applies to any other person on the premises with the consent of the tenant, but only if the tenant knew of the possession by the other person of a controlled substance.

3. a. This section shall not apply to a tenant if the activities causing the clear and present danger, as defined in subsection 2, are conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person conducting the activities:

- (1) The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 235F, 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

(2) The tenant reports the activities causing the clear and present danger to a law enforcement agency or the county attorney in an effort to initiate a criminal action against the person conducting the activities.

(3) The tenant writes a letter to the person conducting the activities causing the clear and present danger, telling the person not to return to the premises and that a return to the premises may result in a trespass or other action against the person, and the tenant sends a copy of the letter to a law enforcement agency whose jurisdiction includes the premises. If the tenant has previously written a letter to the person as provided in this subparagraph, without taking an action specified in subparagraph (1) or (2) or filing a trespass or other action, and the person to whom the letter was sent conducts further activities causing a clear and present danger, the tenant must take one of the actions specified in subparagraph (1) or (2) to be exempt from proceedings pursuant to subsection 1.

b. However, in order to fall within the exemptions provided within this subsection, the tenant must provide written proof to the landlord, prior to the commencement of a suit against the tenant, that the tenant has taken one of the measures specified in paragraph “a”, subparagraphs (1) through (3).

.....

**Right to summon emergency assistance- waiver of rights**

IOWA CODE ANN. § 562A.27B

1.

a. A landlord shall not prohibit or limit a resident’s or tenant’s rights to summon law enforcement assistance or other emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency.

b. A landlord shall not impose monetary or other penalties on a resident or tenant who exercises the resident’s or tenant’s right to summon law enforcement assistance or other emergency assistance.

c. Penalties prohibited by this subsection include all of the following:

(1) The actual or threatened assessment of penalties, fines, or fees.

(2) The actual or threatened eviction, or causing the actual or threatened eviction, from the premises.

d. Any waiver of the provisions of this subsection is contrary to public policy and is void, unenforceable, and of no force or effect.

e. This subsection shall not be construed to prohibit a landlord from recovering from a resident or tenant an amount equal to the costs incurred to repair property damage if the damage is caused by law enforcement or other emergency personnel summoned by the resident or tenant.

f. This section does not prohibit a landlord from terminating, evicting, or refusing to renew a tenancy or rental agreement when such action is premised upon grounds other than the resident's or tenant's exercise of the right to summon law enforcement assistance or other emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency.

2.

a. An ordinance, rule, or regulation of a city, county, or other governmental entity shall not authorize imposition of a penalty against a resident, owner, tenant, or landlord because the resident, owner, tenant, or landlord was a victim of abuse or crime.

b. An ordinance, rule, or regulation of a city, county, or other governmental entity shall not authorize imposition of a penalty against a resident, owner, tenant, or landlord because the resident, owner, tenant, or landlord sought law enforcement assistance or other emergency assistance for a victim of abuse, a victim of a crime, or an individual in an emergency, if either of the following is established:

(1) The resident, owner, tenant, or landlord seeking assistance had a reasonable belief that the emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime, or emergency.

(2) In the event of abuse, crime, or other emergency, the emergency assistance was actually needed.

c. Penalties prohibited by this subsection include all of the following:

(1) The actual or threatened assessment of penalties, fines, or fees.

(2) The actual or threatened eviction, or causing the actual or threatened eviction, from the premises.

(3) The actual or threatened revocation, suspension, or nonrenewal of a rental certificate, license, or permit.

d. This subsection does not prohibit a city, county, or other governmental entity from enforcing any ordinance, rule, or regulation premised upon grounds other than a request for law enforcement assistance or other emergency assistance by a resident, owner, tenant, or landlord, or the fact that the resident, owner, tenant, or landlord was a victim of crime or abuse.

e. This subsection does not prohibit a city, county, or other governmental entity from collecting penalties, fines, or fees for services provided which are necessitated by the

cleanup of hazardous materials, the cleanup of vandalism, or a response to a false alarm call, which are incurred by the provision of emergency medical services, or which reflect other costs incurred by the city, county, or other governmental entity unrelated to responding to a call for law enforcement assistance or other emergency assistance.

3. In addition to other remedies provided by law, if an owner or landlord violates the provisions of this section, a resident or tenant is entitled to recover from the owner or landlord any of the following:

- a. A civil penalty in an amount equal to one month’s rent.
- b. Actual damages.
- c. Reasonable attorney fees the tenant or resident incurs in seeking enforcement of this section.
- d. Court costs.
- e. Injunctive relief.

4. In addition to other remedies provided by law, if a city, county, or other governmental entity violates the provisions of this section, a resident, owner, tenant, or landlord is entitled to recover from the city, county, or other governmental entity any of the following:

- a. An order requiring the city, county, or other governmental entity to cease and desist the unlawful practice.
- b. Other equitable relief, including reinstatement of a rental certificate, license, or permit, as the court may deem appropriate.
- c. Actual damages.
- d. In a case brought by a resident or tenant, the reasonable attorney fees the resident or tenant incurs in seeking enforcement of this section.
- e. Court costs.

5. For purposes of this section, “resident” means a member of a tenant’s family and any other person occupying the dwelling unit with the consent of the tenant.

.....

**Termination for creating a clear and present danger to others**

IOWA CODE ANN. § 562B.25A

1. Notwithstanding section 562B.25 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, the landlord’s employee or agent, or other persons on or within one thousand feet of the landlord’s

property, the landlord, after the service of a single three days' written notice of termination and notice to quit stating the specific activity causing the clear and present danger, and setting forth the language of subsection 3 which includes certain exemption provisions available to the tenant, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The petition shall state the incident or incidents giving rise to the notice of termination and notice to quit. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least three days prior to the hearing.

2. A clear and present danger to the health or safety of other tenants, the landlord, the landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

a. Physical assault or the threat of physical assault.

b. Illegal use of a firearm or other weapon, the threat to use a firearm or other weapon illegally, or possession of an illegal firearm.

c. Possession of a controlled substance unless the controlled substance was obtained directly from or pursuant to a valid prescription or order by a licensed medical practitioner while acting in the course of the practitioner's professional practice. This paragraph applies to any other person on the premises with the consent of the tenant, but only if the tenant knew of the possession by the other person of a controlled substance.

3.

a. This section shall not apply to a tenant if the activities causing the clear and present danger, as defined in subsection 2, are conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person conducting the activities:

(1) The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 235F, 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

(2) The tenant reports the activities causing the clear and present danger to a law enforcement agency or the county attorney in an effort to initiate a criminal action against the person conducting the activities.

(3) The tenant writes a letter to the person conducting the activities causing the clear and present danger, telling the person not to return to the premises and that a return to the premises may result in a trespass or other action against the person, and the tenant sends a copy of the letter to a law enforcement agency whose jurisdiction includes the premises. If the tenant has previously written a letter to the person as provided in this subparagraph, without taking an action specified in

subparagraph (1) or (2) or filing a trespass or other action, and the person to whom the letter was sent conducts further activities causing a clear and present danger, the tenant must take one of the actions specified in subparagraph (1) or (2) to be exempt from proceedings pursuant to subsection 1.

b. However, in order to fall within the exemptions provided within this subsection, the tenant must provide written proof to the landlord, prior to the commencement of a suit against the tenant, that the tenant has taken one of the measures specified in paragraph “a”, subparagraphs (1) through (3).

.....

**Right to summon emergency assistance-waiver of rights**

IOWA CODE ANN. § 562B.25B

1.

a. A landlord shall not prohibit or limit a resident’s or tenant’s rights to summon law enforcement assistance or other emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency.

b. A landlord shall not impose monetary or other penalties on a resident or tenant who exercises the resident’s or tenant’s right to summon law enforcement assistance or other emergency assistance.

c. Penalties prohibited by this subsection include all of the following:

(1) The actual or threatened assessment of penalties, fines, or fees.

(2) The actual or threatened eviction, or causing the actual or threatened eviction, from the premises.

d. Any waiver of the provisions of this subsection is contrary to public policy and is void, unenforceable, and of no force or effect.

e. This subsection shall not be construed to prohibit a landlord from recovering from a resident or tenant an amount equal to the costs incurred to repair property damage if the damage is caused by law enforcement or other emergency personnel summoned by the resident or tenant.

f. This section does not prohibit a landlord from terminating, evicting, or refusing to renew a tenancy or rental agreement when such action is premised upon grounds other than the resident’s or tenant’s exercise of the right to summon law enforcement assistance or other emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency.

2.

a. An ordinance, rule, or regulation of a city, county, or other governmental entity shall not authorize imposition of a penalty against a resident, owner, tenant, or landlord because the resident, owner, tenant, or landlord was a victim of abuse or crime.

b. An ordinance, rule, or regulation of a city, county, or other governmental entity shall not authorize imposition of a penalty against a resident, owner, tenant, or landlord because the resident, owner, tenant, or landlord sought law enforcement assistance or other emergency assistance for a victim of abuse, a victim of a crime, or an individual in an emergency, if either of the following is established:

(1) The resident, owner, tenant, or landlord seeking assistance had a reasonable belief that the emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime, or emergency.

(2) In the event of abuse, crime, or other emergency, the emergency assistance was actually needed.

c. Penalties prohibited by this subsection include all of the following:

(1) The actual or threatened assessment of penalties, fines, or fees.

(2) The actual or threatened eviction, or causing the actual or threatened eviction, from the premises.

(3) The actual or threatened revocation, suspension, or nonrenewal of a rental certificate, license, or permit.

d. This subsection does not prohibit a city, county, or other governmental entity from enforcing any ordinance, rule, or regulation premised upon grounds other than a request for law enforcement assistance or other emergency assistance by a resident, owner, tenant, or landlord, or the fact that the resident, owner, tenant, or landlord was a victim of crime or abuse.

e. This subsection does not prohibit a city, county, or other governmental entity from collecting penalties, fines, or fees for services provided which are necessitated by the cleanup of hazardous materials, the cleanup of vandalism, or a response to a false alarm call, which are incurred by the provision of emergency medical services, or which reflect other costs incurred by the city, county, or other governmental entity unrelated to responding to a call for law enforcement assistance or other emergency assistance.

3. In addition to other remedies provided by law, if an owner or landlord violates the provisions of this section, a resident or tenant is entitled to recover from the owner or landlord any of the following:

a. A civil penalty in an amount equal to one month's rent.

- b. Actual damages.
- c. Reasonable attorney fees the tenant or resident incurs in seeking enforcement of this section.
- d. Court costs.
- e. Injunctive relief.

4. In addition to other remedies provided by law, if a city, county, or other governmental entity violates the provisions of this section, a resident, owner, tenant, or landlord is entitled to recover from the city, county, or other governmental entity any of the following:

- a. An order requiring the city, county, or other governmental entity to cease and desist the unlawful practice.
- b. Other equitable relief, including reinstatement of a rental certificate, license, or permit, as the court may deem appropriate.
- c. Actual damages.
- d. In a case brought by a resident or tenant, the reasonable attorney fees the resident or tenant incurs in seeking enforcement of this section.
- e. Court costs.

5. For purposes of this section, “resident” means a member of a tenant’s family and any other person occupying the dwelling unit with the consent of the tenant.

.....

**Plaintiff's address--confidentiality of records**

IOWA CODE ANN. § 236.10

1. A person seeking relief from domestic abuse under this chapter may use any of the following addresses as a mailing address for purposes of filing a petition under this chapter, as well as for the purpose of obtaining any utility or other service:

- a. The mailing address of a shelter or other agency.
- b. A public or private post office box.
- c. Any other mailing address, with the permission of the resident of that address.

2. A person shall report any change of address, whether designated according to subsection 1 or otherwise, to the clerk of court no more than five days after the previous address on record becomes invalid.

3. The entire file or a portion of the file in a domestic abuse case shall be sealed by the clerk of court as ordered by the court to protect the privacy interest or safety of any person.

4. Notwithstanding subsection 3, court orders and support payment records shall remain public records, although the court may order that address and location information be redacted from the public records.

.....

**Possession of residence and exclusion of the restrained party**

IOWA CODE ANN. § 236.5

1. Upon a finding that the defendant has engaged in domestic abuse:

...

b. The court may grant a protective order or approve a consent agreement which may contain but is not limited to any of the following provisions:

...

(3) That the defendant grant possession of the residence to the plaintiff to the exclusion of the defendant or that the defendant provide suitable alternate housing for the plaintiff.

(4) That the defendant stay away from the plaintiff's residence, school, or place of employment.

...

(7) A grant to the petitioner of the exclusive care, possession, or control of any pets or companion animals owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child of the petitioner or respondent whose welfare may be affected by the controversy. The court may forbid the respondent from approaching, taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the pet or companion animal. This subparagraph shall not apply to livestock as defined in section 717.1, held solely or primarily for commercial purposes.

2. An order for counseling, a protective order, or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing. The court may extend the order if the court, after hearing at which the defendant has the opportunity to be heard, finds that the defendant continues to pose a threat to the safety of the victim, persons

residing with the victim, or members of the victim's immediate family. At the time of the extension, the parties need not meet the requirement in section 236.2, subsection 2, paragraph “d”, that the parties lived together during the last year if the parties met the requirements of section 236.2, subsection 2, paragraph “d”, at the time of the original order. The number of extensions that can be granted by the court is not limited.

...

5. An order or consent agreement under this section shall not affect title to real property.

...

.....

**Right to relief not affected if leaving household to avoid domestic abuse**

IOWA CODE ANN. § 236.7

1. A proceeding under this chapter shall be held in accordance with the rules of civil procedure, except as otherwise set forth in this chapter and in chapter 664A, and is in addition to any other civil or criminal remedy.

2. The plaintiff’s right to relief under this chapter is not affected by leaving the residence or household to avoid domestic abuse.

.....

# KANSAS

Kansas has enacted the following laws regarding survivors' housing rights:

- Possession of residence and exclusion of the restrained party.  
KAN. STAT. ANN. § 60-3107.
- Requirement that the restrained party pay for alternate housing.  
KAN. STAT. ANN. § 60-3107.
- Provisions ordering law enforcement officers to evict a restrained party from the residence. KAN. STAT. ANN. § 60-3107.
- Address confidentiality program. KAN. STAT. ANN. §§ 75-451, *et seq.*
- Public agencies not required to disclose location of shelters, victim contact information.  
KAN. STAT. ANN. § 45-221.

.....

## **Protection from abuse orders procedure; modifications; inconsistent orders; extension of orders; violation of orders, criminal violations and penalties**

### KAN. STAT. ANN. § 60-3107

(a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

...

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 21-5808, and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

(3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.

...

(5) Ordering a law enforcement officer to evict the defendant from the residence or household.

...

(d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

...

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 21-5808, and amendments thereto, and violation of a protective order as defined in K.S.A. 21-5924, and amendments thereto....

.....

**Substitute Mailing Address: Purpose**

KAN. STAT. ANN. § 75-451

The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, human trafficking or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of K.S.A. 75-451 to 75-458, inclusive, and amendments thereto, is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, human trafficking or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, human trafficking or stalking, and to enable state and local agencies to accept a program participant’s use of an address designated by the secretary of state as a substitute mailing address.

**Substitute Mailing Address: Definitions**

KAN. STAT. ANN. § 75-452

The following words and phrases when used in K.S.A. 75-451 to 75-458, inclusive, and amendments thereto, shall have the meanings respectively ascribed to them herein, unless the context clearly requires otherwise:

(a) “Abuse” means:

- (1) Causing or attempting to cause physical harm;

- (2) placing another person in fear of imminent physical harm;
- (3) causing another person to engage involuntarily in sexual relations by force, threats or duress, or threatening to do so;
- (4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;
- (5) depriving another person of necessary health care, housing or food; or
- (6) unreasonably and forcibly restraining the physical movement of another.

(b) “Confidential address” means a residential street address, school street address or work street address of an individual, as specified on the individual's application to be a program participant under K.S.A. 75-451 to 75-458, inclusive, and amendments thereto.

(c) “Confidential mailing address” means an address that is recognized for delivery by the United States postal service.

(d) “Domestic violence” means abuse committed against a victim or the victim's spouse or dependent child by:

- (1) A current or former spouse of the victim;
- (2) a person with whom the victim shares parentage of a child in common;
- (3) a person who is cohabitating with, or has cohabitated with, the victim;
- (4) a person who is related by blood or marriage; or
- (5) a person with whom the victim has or had a dating or engagement relationship.

(e) “Program participant” means a person certified as a program participant under K.S.A. 75-453, and amendments thereto.

(f) “Enrolling agent” means state and local agencies, law enforcement offices, nonprofit agencies and any others designated by the secretary of state that provide counseling and shelter services to victims of domestic violence, sexual assault, human trafficking or stalking.

(g) “Sexual assault” means an act which if committed in this state would constitute any crime defined in article 35 of chapter 21 of the Kansas Statutes Annotated; prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6419 through 21-6421, and amendments thereto.

(h) “Stalking” means an act which if committed in this state would constitute “stalking” as defined by K.S.A. 60-31a01, and amendments thereto.

(i) “Human trafficking” means an act which if committed in this state would constitute the crime of human trafficking as defined by K.S.A. 21-3446, prior to its repeal, or subsection (a) of K.S.A. 21-5426, and amendments thereto.

**Substitute Mailing Address: Application requirements; procedure; certification into program; notification; penalty**

KAN. STAT. ANN. § 75-453

(a) An adult person, an adult family member residing with the victim, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply by and through an enrolling agent to have an address designated by the secretary of state serve as the person’s address or the address of the minor or incapacitated person. Program participants shall not apply directly to the secretary of state. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state signed by the applicant and enrolling agent under penalty of perjury and providing:

(1) A statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking and:

(i) That the applicant fears for the applicant’s safety or the applicant’s children’s safety or the safety of the minor or incapacitated person on whose behalf the application is made; or

(ii) that by virtue of living with an enrolled program participant, the applicant fears that the knowledge or publication of the applicant’s whereabouts will put the enrolled participant in danger.

(2) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail.

(3) The confidential mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state.

(4) The confidential address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, human trafficking or stalking.

(5) Evidence that the applicant or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking, or is an adult family member residing with the victim. This evidence may include any of the following:

(A) Law enforcement, court or other federal, state or local government records or files.

(B) Documentation from a public or private entity that provides assistance to victims of domestic violence, sexual assault, human trafficking or stalking.

(C) Documentation from a religious, medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual assault, human trafficking or stalking.

(D) Other forms of evidence as determined by the secretary of state.

(6) A statement of whether there are any existing court orders involving the applicant for child support, child custody or child visitation and whether there are any active court actions involving the applicant for child support, child custody or child visitation, the name and address of legal counsel of record and the last known address of the other parent or parents involved in those court orders or court actions.

(7) The signature of the applicant and of any individual or representative of any enrolling agent who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed in accordance with procedures prescribed by the secretary of state.

(c) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule and regulation establish a renewal procedure.

(d) Upon certification in the program, in any case where there are court orders or court actions identified in subsection (a)(6), the secretary of state shall, within 10 days, notify the other parent or parents of the address designated by the secretary of state for the program participant and the designation of the secretary of state as agent for purpose of service of process. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under K.S.A. 21-5824, and amendments thereto, or other applicable statutes.

**Substitute Mailing Address: Cancellation; name change after certification; address change; nondeliverable address; use of false information**KAN. STAT. ANN. § 75-454

- (a) If the program participant obtains a legal name change after being certified as a program participant, the secretary of state shall cancel certification of the program participant.
- (b) The secretary of state may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the secretary of state with seven days' prior notice of the change of address.
- (c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.
- (d) The secretary of state shall cancel certification of a program participant who applies using false information.

**Substitute Mailing Address: Use; forwarding mail**KAN. STAT. ANN. § 75-455

- (a) A program participant may request that state and local agencies use the address designated by the secretary of state as the participant's address. When creating a new public record or amending or updating an existing record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:
  - (1) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under K.S.A. 75-451 to 75-458, inclusive, and amendments thereto; and
  - (2) this address will be used only for those statutory and administrative purposes.
- (b) A program participant may use the address designated by the secretary of state as the participant's work address.
- (c) The office of the secretary of state shall forward all first class mail, and other items designated by rule and regulation, to the appropriate program participants.

**Substitute Mailing Address: Rules and regulations authorized**

KAN. STAT. ANN. § 75-456

(a) The secretary of state is authorized to adopt rules and regulations for the proper implementation of K.S.A. 75-451 to 75-458, inclusive, and amendments thereto.

(b) The secretary of state shall prescribe by rule and regulation voting procedures to maintain confidentiality of the addresses of program participants.

**Substitute Mailing Address: Substitute address released; exceptions**

KAN. STAT. ANN. § 75-457

The secretary of state shall not make any records in a program participant's file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency in accordance with procedures prescribed by rules and regulations;

(b) if directed by a court order, to a person identified in the order; or

(c) if requested by a state or local agency, to verify the participation of a specific program participant, in which case the secretary may only confirm participation in the program.

**Substitute Mailing Address: Designation of enrolling agents**

KAN. STAT. ANN. § 75-458

The secretary of state shall designate enrolling agents to assist persons applying to be program participants. The secretary of state may collaborate with enrolling agents to develop a training curriculum. Any assistance rendered to applicants by the office of the secretary of state or its designees shall not be construed as legal advice.

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**Records Open to Public: Certain records not required to be open; separation of open and closed information required; statistics and records over 70 years old open**

KAN. STAT. ANN. § 45-221

(a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

...

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

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# KENTUCKY

Kentucky has enacted the following laws regarding survivors' housing rights:

- Exclusion of the abuser from the residence. KY. REV. STAT. ANN. §§ 403.740.
- A court shall order the omission/deletion of the survivor's address in documents available to an abuser or to the public. KY. REV. STAT. ANN. § 403.745.
- Pretrial release of person arrested for assault. KY. REV. STAT. ANN. § 431.064.
- Petition for interpersonal protective order. KY. REV. STAT. ANN. §§ 456.010, 456.020, 456.030.
- Restraining order upon violation. KY. REV. STAT. ANN. § 508.155.
- Domestic violence shelter trespass as offense. KY. REV. STAT. ANN. § 511.085.
- Address confidentiality program. KY. REV. STAT. ANN. § 14.260.
- Confidentiality of absentee ballot. KY. REV. STAT. ANN. §§ 14.300, *et seq.*; 117.085.

.....

## Definitions

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a grandparent, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

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## Domestic violence order; restrictions

KY. REV. STAT. ANN § 403.740

(1) Following a hearing ordered under KRS 403.730, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:

- (a) Restraining the adverse party from:

...

4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and

5. Disposing of or damaging any of the property of the parties;

...

(d) Additionally, if applicable:

1. Directing the adverse party to vacate a residence shared by the parties to the action;

...

(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:

(a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;

(b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;

(c) Specifically describe in the order the locations or areas prohibited to the respondent; and

(d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.

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**Emergency protective order**

KY. REV. STAT. ANN § 403.745

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(8) A person's right to apply for relief under this chapter shall not be affected by that person leaving his or her residence to avoid domestic violence and abuse.

(9) A court shall order the omission or deletion of the petitioner's address and the address of any minor children from any orders or documents to be made available to the public or to any person who engaged in the acts complained of in the petition.

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**Pretrial release of person arrested for assault, sexual offense, or violation of protective order; conditions; hearing; victim entitled to copy of conditions of release; entry of conditions into Law Information Network; penalty**

KY. REV. STAT. ANN. § 431.064

(1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of an order of protection as defined in KRS 403.720 and 456.010, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:

- (a) Is a threat to the alleged victim or other family or household member; and
- (b) Is reasonably likely to appear in court.

(2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1) of this section, and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

- ...
- (b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;
- (c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;
- ...

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**Definitions**

KY. REV. STAT. ANN. § 456.010

As used in this chapter:

(1) “Dating relationship” means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:

- (a) Declarations of romantic interest;
- (b) The relationship was characterized by the expectation of affection;

- (c) Attendance at social outings together as a couple;
- (d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;
- (e) The length and recency of the relationship; and
- (f) Other indications of a substantial connection that would lead a reasonable person to understand that a dating relationship existed;

(2) “Dating violence and abuse” means physical injury, serious physical injury, stalking, sexual assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault occurring between persons who are or have been in a dating relationship;

(3) “Foreign protective order” means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;

(4) “Global positioning monitoring system” means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;

(5) “Order of protection” means any interpersonal protective order, including those issued on a temporary basis, and includes a foreign protective order;

(6) “Sexual assault” refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020;

(7) “Stalking” refers to conduct prohibited as stalking under KRS 508.140 or 508.150; and

(8) “Substantial violation” means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

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**Interpretation of chapter**

KY. REV. STAT. ANN. § 456.020

- (1) This chapter shall be interpreted to:
  - (a) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;
  - (b) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;
  - (c) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to

believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;

(d) Provide for the collection of data concerning incidents of dating violence and abuse, sexual assault, and stalking in order to develop a comprehensive analysis of the numbers and causes of such incidents; and

(e) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.

(2) Nothing in this chapter is intended to trigger the application of the provisions of 18 U.S.C sec. 922(g) as to an interpersonal protective order issued on the basis of the existence of a current or previous dating relationship.

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**Petition for interpersonal protective order**

KY. REV. STAT. ANN. § 456.030

(1) A petition for an interpersonal protective order may be filed by:

(a) A victim of dating violence and abuse;

(b) A victim of stalking;

(c) A victim of sexual assault; or

(d) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.

(2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape dating violence and abuse, stalking, or sexual assault.

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**Restraining order upon violation**

KY. REV. STAT. ANN. § 508.155

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(4) A restraining order may grant the following specific relief:

(a) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim; or

(b) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally, or through an agent, initiating any communication likely to cause serious alarm, annoyance, intimidation, or harassment,

including but not limited to personal, written, telephonic, or any other form of written or electronic communication or contact with the victim. An order issued pursuant to this subsection relating to a school, place of business, or similar nonresidential location shall be sufficiently limited to protect the stalking victim but shall also protect the defendant's right to employment, education, or the right to do legitimate business with the employer of a stalking victim as long as the defendant does not have contact with the stalking victim. The provisions of this subsection shall not apply to a contact by an attorney regarding a legal matter.

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**Domestic violence shelter trespass**

KY. REV. STAT. ANN. § 511.085

- (1) As used in this section, “domestic violence shelter” means a residential facility providing protective shelter services for domestic violence victims.
- (2) A person is guilty of domestic violence shelter trespass when:
  - (a) The person enters the buildings or premises of a domestic violence shelter that the person knows or should know is a domestic violence shelter or which is clearly marked on the building or premises as being a domestic violence shelter; and
  - (b) At the time of the entering, the person is the subject of an order of protection as defined in KRS 403.720 and 456.010.
- (3) It shall be a defense to a prosecution under this section that the person entered the shelter with the permission of the operator of the shelter after disclosing to the operator that the person is the subject of an order of protection or a foreign protective order. Authority to enter under this subsection may not be granted by a person taking shelter at the facility.
- (4) A person shall not be convicted of a violation of this section and a violation of KRS 511.060, 511.070, or 511.080 arising from the same act of trespass.
- (5) Domestic violence shelter trespass is a Class A misdemeanor.

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**Address Protection Program; substitute address**

KY. REV. STAT. ANN. § 14.260

- (1) As funds are available, the Secretary of State, or designee, shall promulgate administrative regulations to expand the address protection program to allow an applicant or specified guardians to apply to have a substitute address designated to serve as the address of the participant. Any program created under this section shall:
  - (a) Collaborate with the Kentucky Commission on Women;

(b) Establish criteria to prohibit certain individuals, including any individual required to register as a sex offender, from participation in the program;

(c) Allow a participant to request that state and local agencies use the substitute address as the address of the participant, but agencies may show that they have a bona fide statutory or administrative requirement for the actual address;

(d) Be open to individuals that are victims of domestic violence and abuse, stalking, any victim of an offense or an attempt to commit an offense defined in KRS Chapter 510, 530.020, 530.064(1)(a), 531.310, or 531.320, or any victim of a similar federal offense or a similar offense from another state or territory;

(e) Allow an applicant to submit evidence, including a sworn statement, to show that he or she is a victim of a qualifying offense.

(2) Participation in any program established under this section shall not affect custody or visitation orders in effect prior to or established during program participation, nor shall it constitute evidence of any offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time.

(3) No actionable duty nor any right of action shall accrue against the state, any entity operating an address protection program for the state, an individual operating in his or her professional capacity on behalf of the confidential address protection program established in this section, or an employee of the state or municipality in the event of negligent acts that result in the disclosure of a program participant's actual address.

(4) The address protection program fund is hereby created as a separate trust fund in the State Treasury. The address protection program fund shall consist of amounts received from fees collected pursuant to KRS 23A.208 and 24A.178, amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of this section.

(5) The address protection program fund shall be administered by the Secretary of State to operate and maintain the confidential address protection program established in this section.

(6) Notwithstanding KRS 45.229, address protection program fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.

(7) Any interest earnings of the address protection program fund shall become a part of the address protection program fund and shall not lapse.

(8) Moneys deposited in the address protection program fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

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**Definitions**KY. REV. STAT. ANN. § 14.300

As used in KRS 14.300 to 14.318 unless the context otherwise requires:

- (1) “Address” means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;
- (2) “Applicant” means a person applying for certification in the address confidentiality program under KRS 14.300 to 14.318;
- (3) “Criminal offense against a victim who is a minor” has the same meaning as in KRS 17.500;
- (4) “Domestic violence and abuse” has the same meaning as in KRS 403.720;
- (5) “Program participant” means a person certified as a program participant under KRS 14.300 to 14.318;
- (6) “Sex crime” means an offense or an attempt to commit an offense defined in:
  - (a) KRS Chapter 510;
  - (b) KRS 530.020;
  - (c) KRS 530.064(1)(a);
  - (d) KRS 531.310;
  - (e) KRS 531.320; or
  - (f) Any criminal attempt to commit an offense specified in this subsection, regardless of the penalty for the attempt;
- (7) “Specified offense” means:
  - (a) Domestic violence and abuse;
  - (b) Stalking;
  - (c) A sex crime;
  - (d) A criminal offense against a victim who is a minor;
  - (e) A similar federal offense; or
  - (f) A similar offense from another state or territory; and
- (8) “Stalking” means conduct prohibited under KRS 508.140 and 508.150.

**Crime victims' address protection program; program open to victims of domestic violence and abuse, stalking, and felony sex offenses; criminal history background check and fingerprinting of Department of State employees administering program**

KY. REV. STAT. ANN. § 14.302

(1) On or after July 1, 2013, the Secretary of State shall create a crime victim address protection program.

(2) The crime victim address protection program shall be open to victims of a specified offense who are United States citizens and residents of Kentucky, without any cost to the program participant.

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**Permit crime victims to use for voting purposes an address provided by the Secretary of State rather than person's actual physical address**

KY. REV. STAT. ANN. § 14.304

(1) Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:

(a) A sworn statement by the applicant that:

1. The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or
2. The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an order of protection as defined in KRS 403.720 and 456.010 by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;

(b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.

(c) The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and

(e) The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the Office of the Secretary of State.

(3) Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.

(4) Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.

(5) A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.

(6) The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.

(7) A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.

**Grounds for cancellation of a program participant's certification**

KY. REV. STAT. ANN. § 14.306

(1) The Secretary of State may cancel certification of a program participant if within fourteen (14) days:

(a) From the date of the program participant changing his or her name, the program participant fails to notify the Secretary of State that he or she has obtained a name change; however, the program participant may reapply under his or her new name; or

(b) From the date of changing his or her address, the program participant fails to notify the Secretary of State of the change of address.

(2) The Secretary of State shall cancel certification of a program participant who applies using false information.

(3) The Secretary of State shall send notice of certification cancellation to the program participant. The notice of certification cancellation shall set out the reasons for cancellation. The program participant has the right to appeal the decision within thirty (30) days under procedures established by the Office of the Secretary of State by administrative regulation.

(4) The Secretary of State shall cancel certification of a program participant who is required to register as a sex offender.

(5) A program participant may withdraw from the program by providing the Secretary of State with notice of his or her intention to withdraw from the program. The Secretary of State shall promulgate by administrative regulations a secure procedure by which to ensure that the program participant's request for withdrawal is legitimate.

**Confidentiality of program participant’s records; exceptions authorizing disclosure**

KY. REV. STAT. ANN. § 14.308

The Secretary of the State shall not make available for inspection or copying any records in a file of a program participant, other than the address designated by the Secretary of State, except under the following circumstances:

(1) If directed by a court order signed by a judge or justice of a court of competent jurisdiction within the Commonwealth of Kentucky; or

(2) Upon written request by the chief law enforcement officer of a city or county, or the commander of a Department of Kentucky State Police post or branch, if related to an ongoing official investigation. Requests shall include the reason the information is needed by the law enforcement agency.

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**Program participants to vote by mail-in absentee ballot; modification of county clerk's system to safeguard confidentiality of participant's voting records**

KY. REV. STAT. ANN. § 14.312

(1) A program participant who is otherwise qualified to vote may register to vote and apply for and submit a mail-in absentee ballot under this section.

(2) Using the authority granted under KRS 14.318(1), the State Board of Elections shall design a system allowing a county clerk to shield from public view all voting records of a program participant, including the name and address of a program participant, and allowing a program participant to vote by mail-in absentee ballot. This authority may be used to modify statutory or

regulatory requirements that would lead to disclosure of the program participant's name and address, but shall not include authority to waive or modify any other requirements relative to the program participant's qualifications to vote, including age and geographic residency.

(3) The program participant may receive mail-in absentee ballots for all elections in the jurisdiction in which that individual resides in the same manner as a person requesting an absentee ballot under KRS 117.085(1)(a). The county clerk shall transmit a mail-in absentee ballot to the program participant at the address designated by the participant in his or her application.

(4) Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public, including any list inspected under KRS 116.095.

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**Limitation of liability for negligent disclosure of program participant's actual address**

KY. REV. STAT. ANN. § 14.316

No actionable duty or any right of action shall accrue against the state, a county, a municipality, an agency of the state or county or municipality, or an employee of the state or county or municipality in the event of negligent disclosure of a program participant's actual address.

**Administrative regulations to be promulgated by State Board of Elections and Secretary of State**

KY. REV. STAT. ANN. § 14.318

(1) The State Board of Elections may promulgate administrative regulations to implement KRS 14.312 and 117.085.

(2) The Secretary of State may promulgate administrative regulations to implement KRS 14.300 to 14.310, 14.314, and 14.316.

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**Application for mail-in absentee ballot; in-person absentee voting in the clerk’s office; supervision of and challengers for absentee voting; form of ballot; cancellation of absentee ballot; disclosure of information**

KY. REV. STAT. ANN. § 117.085

(1) ...

(a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:

...

8. Voters who are program participants in the Secretary of State's crime victim address confidentiality protection program as authorized by KRS 14.312.



# LOUISIANA

Louisiana has enacted the following laws regarding survivors' housing rights:

- Housing authorities may not terminate the tenancy of a resident for reasons of domestic abuse, dating violence, or family violence committed against the resident. LA. REV. STAT. ANN. § 40:506.
- Possession of property and exclusion of restrained party. LA. REV. STAT. ANN. §§ 46:2135, 46:2136.
- Address confidentiality program. LA. REV. STAT. ANN. § 44:51, *et seq.*
- Lease agreements for certain residential dwellings; domestic abuse victims. LA. REV. STAT. ANN. § 3261.1.

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## Termination of tenancy

### LA. REV. STAT. ANN. § 40:506

A. Except as expressly provided herein, the landlord tenant relationship, and the termination thereof, is governed by state law applicable to privately owned, residential property.

B. Without limiting the foregoing, a local housing authority may terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority for either:

(1) Any unlawful drug-related activity or other criminal behavior on the part of a recipient or head of household or any member of the household ....

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D.

(1) The local housing authority may not terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority under Paragraph(B)(1) of this Section for reasons of domestic abuse, dating violence, or family violence committed against the head of household, a member of household, or a resident. The local housing authority may terminate the tenancy of or any other assistance provided to the perpetrator of the domestic abuse, dating violence, or family violence.

(2) For purposes of Paragraph (B)(1) of this Section, no person may be considered a guest or invitee of a member of a household without the consent of the head of household or a member of household. Consent is automatically withdrawn when a guest or invitee is a perpetrator of an act of domestic abuse, dating violence, or family violence.

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**Temporary restraining order**LA. REV. STAT. ANN. § 46:2135

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any minor children, or any person alleged to be an incompetent. Any person who shows immediate and present danger of abuse shall constitute good cause for purposes of this Subsection. The court shall consider any and all past history of abuse, or threats thereof, in determining the existence of an immediate and present danger of abuse. There is no requirement that the abuse itself be recent, immediate, or present. The order may include but is not limited to the following:

(1) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the minor children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Part.

...

(3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where:

(a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought;

(b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought; or

(c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.

(4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.

...

(6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computers, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbooks, keys, automobiles, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence

or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

...

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

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**Protective orders; content; modification; service**

LA. REV. STAT. ANN. § 46:2136

A. The court may grant any protective order or approve any consent agreement to bring about a cessation of domestic abuse as defined in R.S. 46:2132(3), or the threat or danger thereof, to a party, any minor children, or any person alleged to be incompetent, which relief may include but is not limited to:

(1) Granting the relief enumerated in R.S. 462135.

(2) Where there is a duty to support a party, any minor children, or any person alleged to be incompetent living in the residence or household, ordering payment of temporary support or provision of suitable housing for them, or granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where the residence is solely owned by the defendant and the petitioner has been awarded the temporary custody of the minor children born of the parties.

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**Definitions**

LA. REV. STAT. ANN. § 44:51

As used in this Part, the following terms shall have the meanings hereinafter ascribed to each, unless the context clearly indicates another meaning:

(1) "Abuse" means causing or attempting to cause physical harm, placing another person in fear of physical harm, or causing another person to engage involuntarily in sexual activity by force, threat of force, or duress, when committed by any of the following:

- (a) A person against such person's spouse.
- (b) A person against such person's former spouse.
- (c) A person residing with the victim if such person and the victim are or were in a dating relationship.
- (d) A person who formerly resided with the victim if such person and the victim are or were in a dating relationship.
- (e) A person against a parent of such person's child, whether or not such person and the victim have been married or resided together at any time.
- (f) A person against a person with whom such person is in a dating relationship.
- (g) A person against a person with whom such person formerly was in a dating relationship.
- (h) A person related to the victim by consanguinity or affinity.

(2) "Dating relationship" means an intimate or sexual relationship.

(3) "Physical address" means a residential street address, school address, or work address of a program participant.

(4) "Program participant" means a person currently certified as a program participant under R.S. 44:52.

(5) "Sexual assault" means any of the acts defined as crimes in R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, and 43.5.

(6) "Stalking" means the acts defined as crimes in R.S. 14:40.2.

(7) "Substitute address" means an address designated to a program participant by the secretary of state.

**Address confidentiality program; application; certification; substitute address; renewal; prohibited acts; penalties**LA. REV. STAT. ANN. § 44:52

A.

(1) The Louisiana Department of State Address Confidentiality Program is hereby established to provide for the confidentiality of the physical addresses of program participants who are victims of abuse, sexual assault, or stalking.

(2) The secretary of state shall promulgate and adopt rules as necessary to effectuate the provisions and purposes of this Part. Any act or omission of the secretary of state in the implementation of the provisions of this Part shall be reviewable upon filing a petition for judicial review in the Nineteenth Judicial District Court. However, the secretary of state, his employees, application assistance agencies or organizations designated under R.S. 44:56, and the employees or volunteers of such agencies or organizations shall not be liable for any injury, loss, or damage resulting from any act or omission under this Part, except when such injury, loss, or damage is caused by an act or omission described in Paragraph (3) or (4) of Subsection B of this Section that is criminal, grossly negligent, intentional, or willful.

(3) The following persons may make application to the secretary of state to participate in the address confidentiality program:

(a) Any person who is a victim of abuse, sexual assault, or stalking and fears for his or her safety.

(b) A parent on behalf of his minor child, which child is the victim of abuse, sexual assault, or stalking, and for whom the parent fears for the safety.

(c) A guardian on behalf of a minor or incapacitated person in his care, which minor or incapacitated person is a victim of abuse, sexual assault, or stalking, and for whom the guardian fears for the safety.

(4) An application to the secretary of state for certification to participate in the address confidentiality program shall include the following:

(a) A sworn statement by the applicant attesting that the applicant has good reason to believe:

(i) That the applicant or the minor or incapacitated person on whose behalf the application is made is a victim of abuse, sexual assault, or stalking;  
and

(ii) That the applicant fears for his or her safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the secretary of state as agent for purposes of service of process and receipt of mail.

(c) The mailing address and the telephone number or numbers where the applicant can be contacted by the secretary of state.

(d) The physical address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of abuse, sexual assault, or stalking.

(e) A statement attesting that the applicant understands that as program participant, if he is a registered voter, he voluntarily waives his right to vote in person during early voting or at the polls on election day, but is eligible to vote absentee by mail.

(f) The signature of the applicant and the signature of any person who assisted the applicant in completing the application, as authorized in R.S. 44:56.

B.

(1) Applications shall be filed in the office of the secretary of state.

(2) Upon the filing of a properly completed application, the secretary of state shall certify the applicant as a program participant. Such certification shall be valid for four years following the date of filing unless the certification is canceled. The secretary of state may establish a renewal procedure for program participants by administrative rule in accordance with the Administrative Procedure Act.<sup>1</sup> The secretary of state shall designate a substitute address to each program participant. The secretary of state shall forward all first-class mail to each program participant's physical address.

(3) A person who falsely attests in an application that the applicant or the minor or incapacitated person on whose behalf the application is made is a victim of abuse, sexual assault, or stalking, or falsely attests that the applicant fears for his or her safety, or the safety of the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor and shall be fined not more than one thousand dollars or be imprisoned for not more than one year, or both. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than two thousand five hundred dollars or imprisonment for not more than five years, or both.

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<sup>1</sup> R.S. 49:950 *et seq.*

(4) No person shall intentionally, and knowing that he is not authorized to do so, obtain or cause the release of a program participant's physical address from the secretary of state, a state agency, a parish or local governmental agency, a law enforcement agency, or an application assistance agency or organization designated pursuant to R.S. 44:56. Whoever violates the provisions of this Paragraph is guilty of a misdemeanor and shall be fined not more than two thousand dollars or imprisoned for not more than one year, or both. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than three thousand five hundred dollars or imprisonment for not more than five years, or both.

### **Cancellation of certification**

#### LA. REV. STAT. ANN. § 44:53

##### A.

(1) If a program participant or the minor or incapacitated person on whose behalf the application is made legally changes his name, he shall notify the secretary of state's office within seven days of the approval of the name change and provide documentation of the legal name change. If the applicant fails to timely notify the secretary of state's office or cannot provide documentation of the legal name change, the secretary of state may cancel his certification as a program participant.

(2) If a program participant or the minor or incapacitated person on whose behalf the application is made changes any of his physical addresses, he shall notify the secretary of state's office within seven days of the change. If the applicant fails to timely notify the secretary of state's office of the address change, the secretary of state may cancel his certification as a program participant.

(3) The secretary of state may cancel certification of a program participant if mail forwarded to the program participant's physical address is returned as undeliverable.

(4) The secretary of state shall cancel the certification of a program participant who makes a false attestation or provides false information on his or her application.

(5) The secretary of state shall cancel the certification of a program participant if such participant qualifies as a candidate for an office pursuant to the provisions of R.S. 18:461.

B. Prior to cancelling the certification of a program participant, the secretary of state shall attempt to notify the program participant in writing of such action.

**Substitute address; use**LA. REV. STAT. ANN. § 44:54

A.

(1) A program participant may inform any state or local agency that he is a program participant and request that such agency use the substitute address designated by the secretary of state as the participant's address of record for such agency. If any agency refuses to accept the substitute address, such agency shall submit its refusal to the secretary of state's office.

(2) If the secretary of state's office determines that there is a bona fide statutory or administrative requirement which makes necessary the use of the program participant's physical address, and that such address will not become a public record in the custody of the agency, then the secretary of state may provide the physical address of the program participant to the agency, after notifying the program participant in writing that his or her physical address will be released to the agency.

(3) If the secretary of state's office determines that there is not a bona fide statutory or administrative requirement which makes necessary the use of the program participant's physical address, or that such address will become a public record in the custody of the agency, then the secretary of state shall not provide the physical address of the program participant to the agency.

B. The secretary of state's office shall notify the appropriate registrar of voters of the identity of any program participant within the parish and provide the program participant's substitute address. The Department of State and the registrars of voters shall use the substitute address for all purposes related to voter registration and voting for a period of four years from the date that the program participant's application was filed or until the program participant's certification is canceled, whichever occurs first. The program participant's name and physical address contained in the voter registration records of the secretary of state and registrars of voters are confidential and shall not be made available for public inspection or copying.

**Secretary of state; use of substitute address; exceptions**LA. REV. STAT. ANN. § 44:55

The secretary of state shall not make any records in a program participant's file available for inspection or copying, other than the substitute address designated by the secretary of state, except under any of the following circumstances:

(1) If requested of the secretary of state by the chief commanding officer of a law enforcement agency or the officer's designee in the manner provided for by rules adopted and promulgated by the secretary of state in accordance with the Administrative Procedure Act.<sup>1</sup>

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<sup>1</sup> R.S. 49:950 *et seq.*

(2) To a person identified in a court order upon the receipt by the secretary of state of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefor.

(3) To verify the participation of a specific program participant, in which case the secretary of state may only confirm or deny information supplied by the requestor.

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**Service of process**

LA. REV. STAT. ANN. § 44:57

A. Service of citation or other process on a program participant shall be made on the secretary of state. If a person makes service of citation or other process on a program participant at the program participant's physical address or personally on the program participant, knowing that he is a program participant, such service of citation or other process shall be invalid and shall have no effect.

B. All legal delays for service of citation or other process on a program participant shall be extended ten days.

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**Lease agreements for certain residential dwellings; domestic abuse victims**

LA. REV. STAT. ANN. § 3261.1

A. This Section shall apply only to a lease agreement for a residential dwelling within a building or structure consisting of six or more separate 14 residential dwellings. The provisions of this Section shall not apply when the structure consists of ten or fewer units and one of the units is occupied by the owner or lessor

**B. Definitions**

(1) "Domestic abuse" means domestic abuse battery as defined in R.S. 14:35.3 provided that the domestic abuse was committed on the leased premises.

(2) "Household member" means a household member as defined in R.S. 14:35.3.

(3) "Reasonable documentation" shall be exclusively confined to mean 23 any of the following documents:(a) A completed Certification of Domestic Abuse form as set forth in this Section, signed under oath by a qualified third party as defined in this Section. (b) A Uniform Abuse Prevention Order.

(4) "Qualified third party" means the executive director, program director, or another employee of a community-based shelter contracted with the Department of Children and Family Services pursuant to R.S. 46:2124, provided the employee is a Licensed Clinical Social Worker (LCSW) or possesses a masters degree in Social Work (MSW).

(5) "Domestic abuse offender" means a lessee or household member who has been named as a defendant in a Uniform Abuse Prevention Order or has been identified as a perpetrator of domestic abuse in a Certification of Domestic Abuse.

(6) "Domestic abuse victim" means a lessee or household member who has been named as a petitioner in a Uniform Abuse Prevention Order or has completed a Certification of Domestic Abuse.

(7) "Accommodation" means the granting by the lessor to a domestic abuse victim the right to execute, renew, or terminate a lease, as applicable under the circumstances, pursuant to the requirements of this Section.

C.

(1) No lease agreement shall: (a) Limit the lessee's right to summon, or any other person's right to summon, a law enforcement officer or other emergency assistance in response to an emergency or following an incident of domestic abuse on the leased premises. (b) Assess monetary penalties or other penalties under the lease for the lessee summoning, or for any other person summoning, a law enforcement officer or other emergency assistance in response to an emergency or following an incident of domestic abuse on the leased premises.

(2) A lease provision prohibited under this Subsection shall be null, void, and unenforceable.

D.

(1) A lessor shall not:

(a) Refuse to enter into the lease agreement solely on the basis that an applicant, or that applicant's household member, is or has been a victim of domestic abuse, or, except as provided by Subparagraph (b) of this Paragraph, on the basis of activity directly related to domestic abuse, if that applicant provides reasonable documentation and otherwise qualifies to enter into a lease agreement. The provisions of this Subparagraph shall not apply to an applicant who has previously been evicted by the lessor for any reason.

(b) Terminate the lease agreement, fail to renew the lease agreement, or issue an eviction notice or notice to vacate on the basis that an act of domestic abuse or activity directly related to domestic abuse has occurred on the leased premises and the victim is a lessee or a lessee's household member. However, if the continued presence of a domestic abuse offender in, or in close proximity to, the lessee's residential dwelling or apartment results in one or more additional violent disturbances or altercations and those disturbances or altercations pose a threat to the safety or peaceable possession of the premises by the lessee or other residents, then the lessor may evict the lessee, even if the presence of the domestic abuse offender is uninvited or unwelcome by the lessee. In such evictions, at the lessor's sole discretion, the lessor may permit the lessee to relocate to a different residential dwelling or apartment, provided that another residential dwelling or

apartment is available and the lessee otherwise meets the lessor's qualification standards.

(2) An applicant, lessee, or any household member of an applicant or lessee who is or was the victim of domestic abuse, and who seeks protection under this Section, shall produce to the lessor reasonable documentation of the domestic abuse on or before the date of the lease application, lease termination, lease nonrenewal, or before the judgment or order of eviction is rendered. Failure of the applicant, lessee, or household member of any applicant or lessee to timely produce such reasonable documentation shall preclude and act as a complete bar to that applicant, lessee, or household member asserting claims or causes of action against the lessor for violation of this Subsection.

(3)

(a) A lessor who has not yet been given reasonable documentation of the abuse by the lessee and who issues an eviction notice or a notice to vacate to any lessee for any reason allowed under an existing lease agreement, including damage to leased premises, shall not be penalized under this Section.

(b) However, if the sole reason the eviction notice or notice to vacate was issued was a single act of domestic abuse and not an additional act of domestic abuse under Paragraph (D)(1), no breach of the lease has been alleged, and the lessor receives reasonable documentation of domestic abuse before the judgment or order of eviction is rendered, then the lessor shall rescind the eviction notice or notice to vacate.

E. Only a lessee or a household member of the lessee's residential dwelling unit may be considered a domestic abuse victim such that the lessee may request an accommodation under this Section. In order for a lessee to receive an early termination as provided in this Section, the lessee shall do all of the following:

(1) Assert in writing to the lessor that the lessee, or the lessee's household member, is a domestic abuse victim and that the lessee seeks the particular accommodation afforded under Subsection F of this Section.

(2) Provide to the lessor reasonable documentation that the lessee seeking an accommodation, or that lessee's household member, was a victim of an act of domestic abuse on the leased premises within the past thirty days.

(3) Assert in writing that the lessee seeking the accommodation will not knowingly voluntarily permit the domestic abuse offender further access to, visitation on, or occupancy of the lessee's residential dwelling unit and acknowledging that any violation of this Section may result in eviction or termination of the lease.

(4) Otherwise meet or agree to fulfill all requirements of a lessee under the lease agreement.

(5) If requested by the lessor, provide in writing the name and address of the person named as the defendant, perpetrator or abuser in a Uniform Abuse Prevention Order or Certification of Domestic Abuse form.

F. If a lessee fulfills all of the requirements of Subsection E of this Section, the lessor shall grant the lessee the requested early termination of the lease, as provided by this Subsection:

(1) If the lessee requests early termination of the lease agreement, the lessor shall terminate the lease agreement as a matter of law on a mutually agreed-upon date within thirty days of the written request for accommodation. The lessee requesting the accommodation shall vacate the residential dwelling by that date to avoid liability for future rent.

(2) In such cases, the lessee requesting the accommodation is liable only for rent paid through the early termination date of the lease and any previous obligations to the lessor outstanding on that date. The amount due from the lessee shall be paid to the lessor on or before the date the lessee vacates the dwelling. The lessor may withhold the lessee's security deposit only for any reason permitted under R.S. 9:3251. If the lessee or an additional lessee is a domestic abuse offender named on reasonable documentation presented to the lessor in a lessee's request for an accommodation under this Section, the lessor shall be entitled to an immediate eviction of the domestic abuse offender upon presenting the court with reasonable documentation of the abuse.

(3) When there are multiple lessees who are parties to a lease agreement for which the accommodation of early termination is requested by one or more lessees, and upon the lessee's timely providing to the lessor reasonable documentation of the abuse as required in this Section, the entire lease shall terminate on the mutually agreed-upon date, and the lessor shall be entitled to an immediate eviction of all lessees upon presenting the court with reasonable documentation of the abuse.

G. Nothing in this Section shall be construed to limit a lessor's right to refuse to enter into a lease agreement, terminate a lease agreement, fail to renew a lease agreement, or issue an eviction notice or notice to vacate to a lessee or tenants pursuant to Code of Civil Procedure Article 4701, et seq., for actions unrelated to the act of domestic abuse. Further, a lessor shall be entitled to an immediate eviction of the domestic abuse offender upon presenting the court with reasonable documentation of the abuse, and nothing in this Section shall limit a lessee's obligation as required by a lease agreement between the lessor and lessee.

H. A Certification of Domestic Abuse form as provided for in this Section shall read substantially the same as follows:

(Name of qualified third party and, if applicable, the name of their shelter, office or agency)

I and/or my (family or household member) has suffered domestic abuse as defined in R.S. 9:3261.1. Briefly describe the incident giving rise to the claim of domestic abuse:

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s): and at the following location(s):

The incident(s) that I rely on in support of this declaration was/were committed by the following person(s), if known:.

I state under penalty of perjury under the laws of the state of Louisiana that the foregoing is true and correct. By submitting this statement I do not waive any legally recognized privilege protecting any communications that I may have with the agency or representative whose name appears below or with any other person or entity. I understand that my obligation to pay rent does not end until the early termination date of my lease as decided by the lessor or until I vacate the premises upon receiving agreement by the lessor to terminate my obligations under the lease early. I understand that my lessor may keep my security deposit or other amounts as permitted under law.

Dated at, Louisiana, this day of. (Signature of Lessee or Lessee's family or household member) PRINTED NAME

I verify under penalty of perjury under the laws of the state of Louisiana that I have provided services to the person whose signature appears above and that, based on information communicated to me by the person whose signature appears above, the individual or his or her family or household member has suffered domestic abuse as defined by R.S. 9:3261.1, and that the individual informed me of the name of the alleged perpetrator of the actions, giving rise to the claim, if known. This verification does not waive any legally recognized privilege that I, my agency, or any of its representatives have with the person whose signature appears above.

Dated this day of,. (Signature of qualified third party)

PRINTED NAME 12 (License number or organizational tax identification number)

(Organization name)

(Printed address)

[ . . . ]

M. Lessors or owners of residential dwellings who institute eviction proceedings against domestic abuse offenders under this Section shall be immune from any and all lawsuits, claims, demands, or causes of action filed by or on behalf of domestic abuse offenders for wrongful eviction, breach of contract, termination of the lease in violation of this Section, discrimination under state or federal law, or any other claims or causes of actions arising in any way out of the eviction.

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# MAINE

Maine has enacted the following laws regarding survivors' housing rights:

- Possession of property and exclusion of the restrained party; abuser's payment for alternative housing and moving expenses. ME. REV. STAT. ANN. tit. 19-A, §§ 4006, 4007.
- Confidentiality of housing authority records. ME. REV. STAT. ANN. tit. 30-A, § 4706.
- Protecting the survivor from evictions related to domestic violence, sexual assault, or stalking; bifurcating lease; early lease termination; lock changes. ME. REV. STAT. ANN. tit. 14, §§ 6001, 6002, 6025.
- Perpetrator liable for property damages as a result of domestic violence, sexual assault, or stalking. ME. REV. STAT. ANN. tit. 14, § 6010.

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## Hearings

ME. REV. STAT. ANN. tit. 19-A, § 4006

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**5. Interim relief.** The court, in an ex parte proceeding, may make an order concerning the parental rights and responsibilities relating to minor children residing in the household and may enjoin the defendant from engaging in the following:

...

C. Entering the family residence or the residence of the plaintiff;

D. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

E. Taking, converting or damaging property in which the plaintiff may have a legal interest;

...

**Relief**

ME. REV. STAT. ANN. tit. 19-A, § 4007

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse or engaged in the alleged conduct described in section 4005, subsection 1, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse or the alleged conduct. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

...

B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence;

C. Directing the defendant to refrain from repeatedly and without reasonable cause:

...

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

...

E. When the mutual residence or household of the parties is jointly owned or jointly leased or when one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee:

(1) Granting or restoring possession of the residence or household to one party, excluding the other; or

(2) A consent agreement, allowing the party with the duty to support to provide suitable alternate housing;

E-1. Directing the defendant to refrain from injuring or threatening to injure any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household;

F. Ordering a division of the personal property and household goods and furnishings of the parties and placing any protective orders considered appropriate by the court, including an order to refrain from taking, converting or damaging property in which the plaintiff has a legal interest;

...

K. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

...

4. Title to property. An order or agreement may not affect title to any real property.

...

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**Records confidential**

ME. REV. STAT. ANN. tit. 30-A, § 4706

1. Confidential information. Records containing the following information are deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by an authority or a member, officer, employee or agent of an authority from applicants for residential tenancy in housing owned, financed, assisted or managed by an authority or from any residential tenants of such housing or from any 3rd person pertaining to any applicant for tenancy or to any tenant of such housing;

...

E. The address of a shelter or other living accommodations for victims of domestic violence.

...

3. Waiver. This section shall not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection.

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**Address confidentiality program**

ME. REV. STAT. ANN. tit. 5, § 90-B

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Address" means a residential street, school or work address of an individual, including any geographically specific description or coordinate that identifies a

residential address, as specified on the individual's application to be a program participant under this section.

B. "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault or stalking and who has been designated by the respective agency, and trained, accepted and registered by the secretary to assist individuals in the completion of program participation applications.

C. "Designated address" means the address assigned to a program participant by the secretary pursuant to this section.

D. "Mailing address" means an address that is recognized for delivery by the United States Postal Service.

E. "Program" means the Address Confidentiality Program established in this section.

F. "Program participant" means a person certified by the Secretary of State to participate in the program.

G. "Secretary" means the Secretary of State.

2. Program established. The Address Confidentiality Program is established to protect victims of domestic violence, stalking or sexual assault by authorizing the use of designated addresses for such victims. The program is administered by the secretary under the following application and certification procedures.

A. Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor or a guardian acting on behalf of an incapacitated person may apply to the secretary to have a designated address assigned by the secretary to serve as the person's address or the address of the minor or incapacitated person.

B. The secretary may approve an application only if it is filed with the office of the secretary in the manner established by rule and on a form prescribed by the secretary. A completed application must contain:

(1) The application preparation date, the applicant's signature and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;

(2) A designation of the secretary as agent for purposes of service of process and for receipt of first-class mail;

(3) The mailing address where the applicant may be contacted by the secretary or a designee and the telephone number or numbers where the applicant may be called by the secretary or the secretary's designee; and

(4) One or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.

C. Upon receipt of a properly completed application, the secretary may certify the applicant as a program participant. A program participant is certified for 4 years following the date of initial certification unless the certification is withdrawn or invalidated before that date. The secretary shall send notification of lapsing certification and a reapplication form to a program participant at least 4 weeks prior to the expiration of the program participant's certification.

D. The secretary shall forward first-class mail to the appropriate program participants.

E. A person who violates this paragraph commits a Class E crime.

(1) An applicant may not file an application knowing that it:

(a) Contains false or incorrect information; or

(b) Falsely claims that disclosure of the applicant's address or mailing address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.

(2) An application assistant may not assist or participate in the filing of an application that the application assistant knows:

(a) Contains false or incorrect information; or

(b) Falsely claims that disclosure of the applicant's address or mailing address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.

3. Cancellation. Certification for the program may be canceled if one or more of the following conditions apply:

A. If the program participant obtains a name change, unless the program participant provides the secretary with documentation of a legal name change within 10 business days of the name change;

B. If there is a change in the residential street address from the one listed on the application, unless the program participant provides the secretary with notice of the change in such manner as the secretary provides by rule; or

C. The applicant or program participant violates subsection 2, paragraph E, subparagraph (1).

4. Use of designated address. Upon demonstration of a program participant's certification in the program, state and local government agencies and the courts shall accept and use only the designated address as a program participant's address unless the secretary has approved an exemption pursuant to subsection 5-A.

5-A. Disclosure to law enforcement and to other state and local agencies. If the secretary determines it appropriate, the secretary may make a program participant's address or mailing address available for use by granting an exemption under the following circumstances:

A. Upon request to the secretary by:

- (1) A law enforcement agency in the manner provided for by rule; or
- (2) A commissioner or other chief administrator of a state or local government agency or the commissioner's or administrator's designee in the manner provided for by rule; and

B. Upon a finding by the secretary that:

- (1) An agency under paragraph A has a bona fide statutory, administrative or law enforcement requirement for use of the program participant's address or mailing address such that the agency is unable to fulfill its statutory duties and obligations without the address or mailing address; and
- (2) The program participant's address or mailing address will be used only for those statutory, administrative or law enforcement purposes and otherwise will be kept under seal and excluded from public inspection.

6. Disclosure pursuant to court order or canceled certification. If the secretary determines appropriate, the secretary shall allow a program participant's address and mailing address to be made available for use under the following circumstances:

- A. To a person identified in a court order, upon the secretary's receipt of that court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or
- B. If the certification has been canceled because the applicant or program participant violated subsection 2, paragraph E, subparagraph (1).

7. Confidentiality. The program participant's application, supporting materials and the program's state e-mail account are not a public record and must be kept confidential by the secretary.

8. Rules. The secretary shall adopt rules to carry out this section. These rules are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

.....

**Protecting the survivor from eviction related to domestic violence, sexual assault or stalking; bifurcating lease; early lease termination; lock changes**

ME. REV. STAT. ANN. tit. 14, § 6001

...

6. Domestic violence, sexual assault and stalking. This subsection applies to incidents involving domestic violence, sexual assault or stalking.

A. A victim may not be evicted based on an incident or incidents of actual or threatened domestic violence, sexual assault or stalking occurring at the premises or reporting to any agency such incidents that otherwise may be construed as:

- (1) A nuisance under section 6002;
- (2) Damage to property under section 6002; or
- (3) A lease violation arising from a nuisance, a disturbance or damage to premises.

B. A victim may not be held liable for damage to the property related to an incident or incidents of actual or threatened domestic violence, sexual assault or stalking beyond the value of the victim's security deposit, as long as the alleged perpetrator is a tenant and the victim provides written notice of the damage and documentation required pursuant to paragraph H within 30 days of the occurrence of the damage.

C. A landlord may bifurcate a lease or tenancy without regard to whether a household member who is a victim is a signatory to the lease in order to evict or terminate the tenancy of a perpetrator of domestic violence, sexual assault or stalking. In bifurcating a tenancy, a landlord may not interfere with a victim's property rights as allocated in a valid court order. Nothing in this section may be construed to create a tenancy that previously did not exist.

D. A victim may terminate a lease early due to an incident or threat of domestic violence, sexual assault or stalking by providing:

- (1) Seven days' written notice and documentation required pursuant to paragraph H, in the case of a lease of less than one year; or
- (2) Thirty days' written notice and documentation required pursuant to paragraph H, in the case of a lease with a term of one year or more.

A victim is not liable for any unpaid rent under the victim's lease.

E. Nothing in this section prohibits a landlord from evicting a tenant for reasons unrelated to domestic violence, sexual assault or stalking.

F. Nothing in this section prohibits a landlord from instituting a forcible entry and detainer action against the tenant of the premises who perpetrated the domestic violence, sexual assault or stalking or obtaining a criminal no trespass order against a nontenant who perpetrates such violence or abuse at the premises.

G. Nothing in this section limits the rights of a landlord to hold a perpetrator of the domestic violence, sexual assault or stalking liable for damage to the property.

H. When a victim asserts any of the provisions contained within this chapter specifically available to a victim, except for changing locks according to section 6025, subsection 1, a victim shall provide to the landlord documentation of the alleged conduct by the perpetrator, including the perpetrator's name. Acceptable documentation includes, but is not limited to:

- (1) A statement signed by a Maine-based sexual assault counselor as defined in Title 16, section 53-A, subsection 1, paragraph B, an advocate as defined in Title 16, section 53-B, subsection 1, paragraph A or a victim witness advocate as defined in Title 16, section 53-C, subsection 1, paragraph C;
- (2) A statement signed by a health care provider, mental health care provider or law enforcement officer, including the license number of the health care provider, mental health care provider or law enforcement officer if licensed;
- (3) A copy of a protection from abuse complaint or a temporary order or final order of protection;
- (4) A copy of a protection from harassment complaint or a temporary order or final order of protection from harassment;
- (5) A copy of a police report prepared in response to an investigation of an incident of domestic violence; and
- (6) A copy of a criminal complaint, indictment or conviction for a domestic violence charge.

**Tenancy at will; buildings on land of another – Causes for 7-day notice of termination of tenancy**

ME. REV. STAT. ANN. tit. 14, § 6002

...

1. Causes for 7-day notice of termination of tenancy. Notwithstanding any other provisions of this chapter, the tenancy may be terminated upon 7 days' written notice in the event that the landlord can show, by affirmative proof, that:

A. The tenant, the tenant's family or an invitee of the tenant has caused substantial damage to the demised premises that the tenant has not repaired or caused to be repaired before the giving of the notice provided in this subsection;

B. The tenant, the tenant's family or an invitee of the tenant caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy;

C. The tenant is 7 days or more in arrears in the payment of rent; and

D. The tenant is a perpetrator of domestic violence, sexual assault or stalking and the victim is also a tenant.

...

4. Victims of domestic violence, sexual assault or stalking. A victim may terminate the victim's tenancy in a tenancy-at-will or a lease with a term of less than one year with 7 days' written notice and documentation required pursuant to section 6001, subsection 6, paragraph H due to an incident or threat of domestic violence, sexual assault or stalking. A victim of domestic violence, sexual assault or stalking may terminate the victim's tenancy in a lease with a term of one year or more with 30 days' written notice and documentation required pursuant to section 6001, subsection 6, paragraph H. When written notice is provided to the landlord, the victim is not liable for any rent due beyond the date the notice expires or the date the victim vacates the unit, whichever is later, unless the victim has prepaid rent for the month, in which case the landlord is not required to refund the rent for that month.

**Sums due for rent and damages**

ME. REV. STAT. ANN. tit. 14, § 6010

...

A perpetrator of domestic violence, sexual assault or stalking that occurs in a residential rental property against a tenant of the property, household member or a tenant's guest is liable to the tenant for the tenant's damages as a result of the domestic violence, sexual assault or stalking regardless of whether or not the perpetrator is also a tenant. Such damages include, but are not limited to, moving costs, back rent, current rent, damage to the unit, court costs and attorney's fees.

Nothing in this section relating to damages as a result of domestic violence, sexual assault or stalking creates liability on behalf of a landlord.

**Access to premises**

ME. REV. STAT. ANN. tit. 14, § 6025

1. Tenant obligations. A tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

A tenant may not change the lock to the dwelling unit without giving notice to the landlord and giving the landlord a duplicate key within 48 hours of the change. A victim may change the locks to the unit at the victim's expense. If the victim changes the locks to the unit, the victim shall provide the landlord with a duplicate key within 72 hours of changing the locks. For the purposes of this subsection, "victim" has the same meaning as in section 6000, subsection 4.

...

.....

# MARYLAND

Maryland has enacted the following laws regarding survivors' housing rights:

- Protective orders requiring the restrained party to vacate the home immediately and awarding temporary use and possession of the home to the protected party. MD. CODE ANN., FAM. LAW §§ 4-501(m), 4-504.1, 4-505, 4-506.
- Early lease termination. MD. CODE ANN., REAL PROP. §§ 8-5A-01 through 8-5A-04.
- Eviction defense for victims of domestic violence and sexual assault. MD. CODE ANN., REAL PROP. § 8-5A-05.
- Lock changes for victims of domestic violence and sexual assault. MD. CODE ANN., REAL PROP. § 8-5A-06.
- Address confidentiality program. MD. CODE ANN., FAM. LAW §§ 4-519, *et seq.*

.....

## Definitions

MD. CODE ANN., FAM. LAW § 4-501

...

(m) "Person eligible for relief" includes:

- (1) the current or former spouse of the respondent;
- (2) a cohabitant of the respondent;
- (3) a person related to the respondent by blood, marriage, or adoption;
- (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;
- (5) a vulnerable adult;
- (6) an individual who has a child in common with the respondent; or
- (7) an individual who has had a sexual relationship with the respondent within 1 year before the filing of the petition.

...

## Interim protective orders

MD. CODE ANN., FAM. LAW § 4-504.1

*[Editor's note: Section effective through December 31, 2016;  
Amended by HB 4-504.1 Interim Protective Orders: Effective January 1, 2017]*

**When petition filed with commissioner**

(a) A petition under this subtitle may be filed with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open for business.

**Issuance of interim protective order**

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order to protect a person eligible for relief.

Scope of interim protective order

(c) An interim protective order may:

...

(3) order the respondent to refrain from entering the residence of a person eligible for relief;

(4) if a person eligible for relief and the respondent are residing together at the time of the alleged abuse:

(i) order the respondent to vacate the home immediately;

(ii) award to a person eligible for relief custody of any child of the person eligible for relief and respondent then residing in the home; and

(iii) subject to the limits as to a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the person eligible for relief;

...

(6) in a case alleging abuse of a vulnerable adult, subject to the limits as to a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to an adult living in the home;

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief;

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief; or

(9) award temporary possession of any pet of the person eligible for relief or the respondent.

...

**Temporary protective orders**

*[Editor’s note: Section effective through December 31, 2016;  
Amended by HB 4-504.1 Interim Protective Orders: Effective January 1, 2017]*

MD. CODE ANN., FAM. LAW § 4-505

**In general**

(a)(1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

...

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

...

(ix) award temporary possession of any pet of the person eligible for relief or the respondent.

...

**Final protective orders**

MD. CODE ANN., FAM. LAW § 4-506

**Hearing**

(a) A respondent under § 4-505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

...

**Issuance of final protective order**

(c)(1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

- (i) may proceed with the final protective order hearing; and
- (ii) if the judge finds by a preponderance of the evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

...

**Scope of final protective order**

(d) The final protective order may include any or all of the following relief:

...

- (1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;
- (2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- (3) order the respondent to refrain from entering the residence of any person eligible for relief;
- (4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

...

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

...

**Vacation of home by respondent**

(h) In determining whether to order the respondent to vacate the home under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

- (1) the housing needs of any minor child living in the home;
- (2) the duration of the relationship between the respondent and any person eligible for relief;
- (3) title to the home;
- (4) pendency and type of criminal charges against the respondent;
- (5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;
- (6) the existence of alternative housing for the respondent and any person eligible for relief; and
- (7) the financial resources of the respondent and the person eligible for relief.

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.....  
**Definitions**

MD. CODE ANN., REAL PROP. § 8-5A-01

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**Legal occupant**

(b) “Legal occupant” means an occupant who resides on the premises with the actual knowledge and permission of the landlord.

**Offender**

(c) “Offender” means a person who commits an act of domestic violence or commits a sexual assault offense.

**Peace order**

(d) “Peace order” means an enforceable final peace order.

**Protective order**

(e) “Protective order” means an enforceable final protective order.

**Victim of domestic violence**

(f) “Victim of domestic violence” means a person who is:

- (1) A victim of domestic abuse, as defined in § 4-501 of the Family Law Article; and
- (2) A person eligible for relief, as defined in § 4-501 of the Family Law Article.

**Victim of sexual assault**

(g) “Victim of sexual assault” means a person who is a victim of:

- (1) A sexual crime under Title 3, Subtitle 3 of the Criminal Law Article;
- (2) Child sexual abuse under § 3-602 of the Criminal Law Article; or
- (3) Sexual abuse of a vulnerable adult under § 3-604 of the Criminal Law Article.

.....

**Termination of residential lease by victims of domestic violence or sexual assault**

MD. CODE ANN., REAL PROP. § 8-5A-02

**In general**

(a) Subject to the requirements of subsections (b) and (c) of this section, a tenant may terminate the tenant's future liability under a residential lease if the tenant or legal occupant is:

- (1) A victim of domestic violence; or
- (2) A victim of sexual assault.

**Written notice and 30 days to vacate leased premises**

(b) If a tenant or legal occupant is a victim of domestic violence or a victim of sexual assault, the tenant may provide to the landlord the written notice required under § 8-5A-03 or § 8-5A-04 of this subtitle and, if the written notice is provided, the tenant shall have 30 days to vacate the leased premises from the date of providing the written notice.

**Responsibility for rent**

(c) A tenant who vacates leased premises under this section is responsible for rent only for the 30 days following the tenant providing notice of an intent to vacate.

**Failure to vacate premises within 30 days**

(d) If a tenant does not vacate the leased premises within 30 days of providing to the landlord the written notice required under § 8-5A-03 or § 8-5A-04 of this subtitle, the landlord is, at the landlord's option and with written notice to the tenant, entitled to:

- (1) All legal remedies against a tenant holding over available under § 8-402 of this title; or
- (2) Deem the tenant’s notice of an intent to vacate to have been rescinded and the terms of the original lease to be in full force and effect.

**Future liability of respondents**

(e) The termination of a tenant's future liability under a residential lease under this section does not terminate or in any other way impact the future liability of a tenant who is the respondent in the action that results in:

- (1) A protective order issued for the benefit of the victim tenant or victim legal occupant under § 4-506 of the Family Law Article; or
- (2) A peace order issued for the benefit of the victim tenant or victim legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

.....

**Notice of intent to vacate premises as domestic violence victim**

MD. CODE ANN., REAL PROP. § 8-5A-03

**In general**

(a) If a tenant or legal occupant is a victim of domestic violence, the tenant may terminate the tenant's future liability under a residential lease under § 8-5A-02 of this subtitle if the tenant provides the landlord with written notice by first-class mail or hand delivery of an intent to vacate the premises and notice of the tenant’s or legal occupant’s status as a victim of domestic violence.

**Copy of protective order included with notice**

(b) The notice provided under subsection (a) of this section shall include a copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article.

.....

**Notice of intent to vacate premises as sexual assault victim**

MD. CODE ANN., REAL PROP. § 8-5A-04

**In general**

(a) If a tenant or legal occupant is a victim of sexual assault, the tenant may terminate the tenant's future liability under a residential lease under § 8-5A-02 of this subtitle if the tenant provides the landlord with written notice by first-class mail or hand delivery of an intent to vacate the leased premises, including the tenant’s or legal occupant’s status as a victim of sexual assault.

**Copy of protective or peace orders included with notice**

(b) The notice provided under subsection (a) of this section shall include:

- (1) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or
- (2) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

.....  
**Actions for possession of property against victims of domestic abuse or sexual assault**

MD. CODE ANN., REAL PROP. § 8-5A-05

**Application of section**

(a) This section applies to an action for possession of property under § 8-402.1 of this title against a tenant or legal occupant who is a victim of domestic violence or a victim of sexual assault in which the basis for the alleged breach is an act or acts of domestic violence or sexual assault.

**Domestic violence or sexual assault raised as defense in action for possession of property**

(b)(1) A tenant is deemed to have raised a rebuttable presumption that the alleged breach of the lease does not warrant an eviction if the tenant provides to the court:

- (i) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or
- (ii) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

(2) If domestic violence or sexual assault is raised as a defense in an action for possession of property under § 8-402.1 of this title, the court, in its discretion, may enter a judgment in favor of a tenant who does not provide the evidence described in paragraph (1) of this subsection.

.....  
**Request to change locks of premises**

MD. CODE ANN., REAL PROP. § 8-5A-06

**Written request to change locks**

(a) A person who is a victim of domestic violence or a victim of sexual assault and who is a tenant under a residential lease may provide to the landlord a written request to change the locks of the leased premises if the protective order or peace order issued for the benefit of the tenant or

legal occupant requires the respondent to refrain from entering or to vacate the residence of the tenant or legal occupant.

**Contents of request**

(b) The written request provided under subsection (a) of this section shall include:

- (1) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or
- (2) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

**Landlord or tenant changing locks the next business day**

(c)

- (1) The landlord shall change the locks on the leased premises by the close of the next business day after receiving a written request under subsection (a) of this section.
- (2) If the landlord fails to change the locks as required under paragraph (1) of this subsection, the tenant:

- (i) May have the locks changed by a certified locksmith on the leased premises without permission from the landlord; and
- (ii) Shall give a duplicate key to the landlord or the landlord’s agent by the close of the next business day after the lock change.

**New keys provided to tenant**

(d) If a landlord changes the locks on a tenant’s leased premises under subsection (c) of this section, the landlord:

- (1) Shall provide a copy of the new key to the tenant who made the request for the change of locks at a mutually agreed time not to exceed 48 hours following the lock change; and
- (2) May charge a fee to the tenant not exceeding the reasonable cost of changing the locks.

**Fee due within 45 days**

(e)

- (1) If a landlord charges a fee to the tenant for changing the locks on a tenant’s leased premises under subsection (d) of this section, the tenant shall pay the fee within 45 days of the date the locks are changed.
- (2) If a tenant does not pay a fee as required under paragraph (1) of this subsection, the landlord may:

- (i) Charge the fee as additional rent; or
- (ii) Withhold the amount of the fee from the tenant’s security deposit.

.....

**Address Confidentiality Program: Definitions**

MD. CODE ANN., FAM. LAW § 4-519

**In general**

(a) In this Part IV of this subtitle the following words have the meanings indicated.

**Actual address**

(b) “Actual address” means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a Program participant under this part.

**Disabled person**

(c) “Disabled person” has the meaning stated in § 13-101 of the Estates and Trusts Article.

**Program**

(d) “Program” means the Address Confidentiality Program.

**Program participant**

(e) “Program participant” means a person designated as a Program participant under this part.

.....

**Address Confidentiality Program: Purpose**

MD. CODE ANN., FAM. LAW § 4-520

The purpose of this part is to enable:

- (1) State and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence;
- (2) interagency cooperation in providing address confidentiality for victims of domestic violence; and
- (3) State and local agencies to accept a Program participant’s use of an address designated by the Office of the Secretary of State as a substitute address.

.....

**Address Confidentiality Program: Establishment of Program**

MD. CODE ANN., FAM. LAW § 4-521

The Secretary of State shall establish and administer an Address Confidentiality Program for victims of domestic violence.

.....

**Address Confidentiality Program: Eligibility; application**

MD. CODE ANN., FAM. LAW § 4-522

**Eligible individuals**

(a) Any of the following individuals may apply to participate in the Program:

- (1) an individual acting on the individual's own behalf;
- (2) a parent or guardian acting on behalf of a minor who resides with the parent or guardian; or
- (3) a guardian acting on behalf of a disabled person.

**Application form**

(b) An application to participate in the Program shall be in the form required by the Secretary of State and shall contain:

- (1) a statement that:
  - (i) the applicant is a victim of domestic violence; and
  - (ii) the applicant fears for the applicant's safety or the safety of the applicant's child;
- (2) evidence that the applicant is a victim of domestic violence, including:
  - (i) certified law enforcement, court, or other federal or State agency records or files;
  - (ii) documentation from a domestic violence program; or
  - (iii) documentation from a religious, medical, or other professional from whom the applicant has sought assistance or treatment as a victim of domestic violence;
- (3) a statement that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child;
- (4) a knowing and voluntary designation of the Secretary of State as agent for purposes of service of process and receipt of first-class, certified, or registered mail;
- (5) the mailing address and telephone number where the applicant may be contacted by the Secretary of State;
- (6) the actual address that the applicant requests not be disclosed by the Secretary of State because it would increase the risk of domestic violence;
- (7) a statement as to whether there is any existing court order or pending court action involving the applicant and related to divorce proceedings, child support, child custody, or child visitation, and the court that issued the order or has jurisdiction over the action;
- (8) a sworn statement by the applicant that to the best of the applicant's knowledge all of the information contained in the application is true;
- (9) the signature of the applicant and the date on which the applicant signed the application; and
- (10) a voluntary release and waiver of all future claims against the State for any claim that may arise from participation in the Program except for a claim based on gross negligence.

**Review of application; designation as Program participant**

(c)(1)

(i) On the filing of a properly completed application and release, the Secretary of State shall:

- 1. review the application and release; and
- 2. if the application and release are properly completed and accurate, designate the applicant as a Program participant.

(ii) An applicant shall be a participant for 4 years from the date of filing unless the participation is canceled or withdrawn prior to the end of the 4-year period.

(2) A Program participant may withdraw from participation by filing a signed, notarized request for withdrawal with the Secretary of State.

.....

**Address Confidentiality Program: False statements or information**

MD. CODE ANN., FAM. LAW § 4-523

**Denial of participation**

(a) If an applicant falsely attests in an application that disclosure of the applicant's actual address would endanger the applicant's safety or the safety of the applicant's child or knowingly provides false information when applying for participation or renewal of participation in the Program, the applicant shall no longer be allowed to participate in the Program.

**Prohibited**

(b) A person may not knowingly make a false attestation or knowingly provide false information in an application in violation of subsection (a) of this section.

**Penalty**

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$500 or both.

.....

**Address Confidentiality Program: Change of name, address, or telephone number**

MD. CODE ANN., FAM. LAW § 4-524

**Legal name change**

(a) If a Program participant obtains a legal name change, the Program participant shall notify the Secretary of State within 30 days and provide the Secretary of State with a certified copy of any judgment or order evidencing the change or any other documentation the Secretary of State considers to be sufficient evidence of the change.

**Address or telephone number change**

(b) If a Program participant makes a change in address or telephone number from an address or telephone number listed on the Program participant's application, the Program participant shall notify the Secretary of State at least 7 days before the change occurs.

.....

**Address Confidentiality Program: Cancellation of participation**

MD. CODE ANN., FAM. LAW § 4-525

**In general**

(a) The Secretary of State shall cancel the participation of a Program participant if:

- (1) the Program participant fails to notify the Secretary of State of any legal name change or change in address or telephone number in the manner required by § 4-524 of this part;
- (2) the Program participant files a request for withdrawal of participation under § 4-522(c)(2) of this part;
- (3) the Program participant submits false information in applying for participation in the Program in violation of § 4-523 of this part; or
- (4) the Secretary of State forwards mail to the Program participant and the mail is returned as undeliverable.

**Notice of cancellation**

(b) The Secretary of State shall send notice of any cancellation of participation in the Program to the participant and shall set forth the reason for cancellation.

**Appeal**

(c) A Program participant may appeal any cancellation decision by filing an appeal with the Secretary of State within 30 days after the date of the notice of cancellation in accordance with procedures developed by the Secretary of State.

**Notification to persons using substitute address**

(d) An individual who ceases to be a Program participant is responsible for notifying any person who uses the substitute address designated by the Secretary of State that the substitute address is no longer valid.

.....

**Address Confidentiality Program: State and local agencies; substitute address**

MD. CODE ANN., FAM. LAW § 4-526

**Request to use substitute address**

(a) A Program participant may make a request to any State or local agency to use the substitute address designated by the Secretary of State as the Program participant's address.

**Use of substitute address**

(b) Subject to subsection (c) of this section, when a Program participant has made a request to a State or local agency under subsection (a) of this section, the State or local agency shall use the substitute address designated by the Secretary of State as a Program participant's address.

**Waiver**

(c)

(1) A State or local agency that has a bona fide statutory or administrative requirement for using a Program participant's actual address may apply to the Secretary of State for a waiver from the requirements of the Program.

(2) If the Secretary of State approves the waiver, the State or local agency shall use the Program participant's actual address only for the required statutory or administrative purposes.

.....

**Address Confidentiality Program: Local boards of elections**

MD. CODE ANN., FAM. LAW § 4-527

**Use of actual address**

(a)

(1) Each local board of elections shall use a Program participant's actual address for all election-related purposes.

(2) A Program participant may not use the substitute address designated by the Secretary of State as the Program participant's address for voter registration purposes.

**Disclosure of actual address**

(b) A local board of elections may not make a Program participant's address contained in voter registration records available for public inspection or copying, except:

(1) on request by a law enforcement agency for law enforcement purposes; and

(2) as directed by a court order to disclose the address.

.....  
**Address Confidentiality Program: Disclosure of actual address and telephone number**

MD. CODE ANN., FAM. LAW § 4-528

**Public records**

(a) Except as otherwise provided by this part, a Program participant's actual address and telephone number maintained by the Secretary of State or a State or local agency is not a public record within the meaning of § 4-101 of the General Provisions Article.

**Disclosure**

(b) The Secretary of State may not disclose a Program participant's actual address or telephone number or substitute address, except as provided in subsection (c) of this section and:

(1)(i) on request by a law enforcement agency for law enforcement purposes; and

(ii) as directed by a court order; or

(2) on request by a State or local agency to verify a Program participant's participation in the Program or substitute address for use under § 4-526 of this part.

**Notice to court**

(c) The Secretary of State shall notify the appropriate court of a Program participant's participation in the Program and of the substitute address designated by the Secretary of State if the Program participant:

- (1) is subject to a court order or administrative order;
- (2) is involved in a court action or administrative action; or
- (3) is a witness or a party in a civil or criminal proceeding.

.....

**Address Confidentiality Program: Obtaining or disclosing actual address or telephone number without authorization**

MD. CODE ANN., FAM. LAW § 4-529

**Obtaining actual address or telephone number**

(a) A person may not knowingly and intentionally obtain a Program participant's actual address or telephone number from the Secretary of State or any agency without authorization to obtain the information.

**Disclosing actual address or telephone number**

(b)(1) This subsection applies only when an employee of the Secretary of State:

- (i) obtains a Program participant's actual address or telephone number during the course of the employee's official duties; and
- (ii) at the time of disclosure, has specific knowledge that the actual address or telephone number belongs to a Program participant.

(2) An employee of the Secretary of State or any agency may not knowingly and intentionally disclose a Program participant's actual address or telephone number to another person unless the disclosure is authorized by law.

**Penalty**

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500.

.....

**Address Confidentiality Program: Regulations**

MD. CODE ANN., FAM. LAW § 4-530

The Secretary of State shall adopt regulations to carry out the provisions of this part.

.....

# MASSACHUSETTS

Massachusetts has enacted the following laws regarding survivors' housing rights:

- Orders requiring the restrained party to vacate the family dwelling. MASS. GEN. LAWS ANN. 209A § 3.
- Abuse prevention orders; domestic violence record search; service of order; enforcement; violations. MASS. GEN. LAWS ANN. 209A § 7.
- Orders requiring the restrained party to pay replacement costs for locks and moving expenses. MASS. GEN. LAWS ANN. 258E § 3.
- Early lease termination. MASS. GEN. LAWS ANN. 186 §§ 23-24.
- Non-discrimination against survivors. MASS. GEN. LAWS ANN. 186 § 25.
- Lock changes. MASS. GEN. LAWS ANN. 186 §§ 26-29.
- Address confidentiality program. MASS. GEN. LAWS ANN. 9A §§ 1, *et seq.*
- Admissions preferences for survivors. MASS. GEN. LAWS ANN. 121B § 38D.

.....

## **Remedies; period of relief**

### MASS. GEN. LAWS ANN. 209A § 3

A person suffering from abuse from an adult or minor family or household member may file a complaint in the court requesting protection from such abuse, including, but not limited to, the following orders:

...

(c) ordering the defendant to vacate forthwith and remain away from the household, multiple family dwelling, and workplace. Notwithstanding the provisions of section thirty-four B of chapter two hundred and eight, an order to vacate shall be for a fixed period of time, not to exceed one year, at the expiration of which time the court may extend any such order upon motion of the plaintiff, with notice to the defendant, for such additional time as it deems necessary to protect the plaintiff from abuse;

...

(f) ordering the defendant to pay the person abused monetary compensation for the losses suffered as a direct result of such abuse. Compensatory losses shall include, but not be

limited to, loss of earnings or support, costs for restoring utilities, out-of-pocket losses for injuries sustained, replacement costs for locks or personal property removed or destroyed, medical and moving expenses and reasonable attorney's fees;

...

The court may modify its order at any subsequent time upon motion by either party. When the plaintiff's address is inaccessible to the defendant as provided in section 8 of this chapter and the defendant has filed a motion to modify the court's order, the court shall be responsible for notifying the plaintiff. In no event shall the court disclose any such inaccessible address.

No order under this chapter shall in any manner affect title to real property.

...

.....

**Abuse prevention orders; domestic violence record search; service of order; enforcement; violations**

MASS. GEN. LAWS ANN. 209A § 7

...

Whenever the court orders under sections eighteen, thirty-four B, and thirty-four C of chapter two hundred and eight, section thirty-two of chapter two hundred and nine, sections three, four and five of this chapter, or sections fifteen and twenty of chapter two hundred and nine C, the defendant to vacate, refrain from abusing the plaintiff or to have no contact with the plaintiff or the plaintiff's minor child, the register or clerk-magistrate shall transmit two certified copies of each such order and one copy of the complaint and summons forthwith to the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve one copy of each order upon the defendant, together with a copy of the complaint, order and summons and notice of any suspension or surrender ordered pursuant to section three B of this chapter. Law enforcement agencies shall establish adequate procedures to ensure that, when effecting service upon a defendant pursuant to this paragraph, a law enforcement officer shall, to the extent practicable: (i) fully inform the defendant of the contents of the order and the available penalties for any violation of an order or terms thereof and (ii) provide the defendant with informational resources, including, but not limited to, a list of certified batterer intervention programs, substance abuse counseling, alcohol abuse counseling and financial counseling programs located within or near the court's jurisdiction. The law enforcement agency shall promptly make its return of service to the court.

...

Where a defendant has been found in violation of an abuse prevention order under this chapter or a protection order issued by another jurisdiction, the court may, in addition to the penalties provided for in this section after conviction, as an alternative to incarceration and, as a condition of probation, prohibit contact with the victim through the establishment of court defined geographic exclusion zones including, but not limited to, the areas in and around the

complainant's residence, ...

...

**Filing of complaint; impounding of case record information; filing fee; expiration of order; modification of order; time for filing; nonexclusivity of remedy**

MASS. GEN. LAWS ANN. 258E § 3

(a) A person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment. A person may petition the court under this chapter for an order that the defendant:

...

(iii) remain away from the plaintiff's household or workplace, whether the defendant is an adult or minor; and

(iv) pay the plaintiff monetary compensation for the losses suffered as a direct result of the harassment; provided, however, that compensatory damages shall include, but shall not be limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement of locks, medical expenses, cost for obtaining an unlisted phone number and reasonable attorney's fees.

...

(e) The court may modify its order at any subsequent time upon motion by either party; provided, however, that the non-moving party shall receive sufficient notice and opportunity to be heard on said modification. When the plaintiff's address is inaccessible to the defendant as provided in section 10 and the defendant has filed a motion to modify the court's order, the court shall be responsible for notifying the plaintiff. In no event shall the court disclose any such inaccessible address.

.....

**Definitions applicable to Secs. 23 to 29**

MASS. GEN. LAWS ANN. 186 § 23

(a) As used in sections 23 to 29, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

“Co-tenant”, a person who shares the legal obligation to pay rent or use and occupancy for the premises with a tenant and who occupies the premises.

“Domestic violence”, the occurrence of 1 or more of the following acts between family or member of a household:

- (i) attempting to cause or causing physical harm;
- (ii) placing another in fear of imminent serious physical harm;
- (iii) causing another to engage involuntarily in sexual relations by force, threat or duress.

“Housing subsidy provider”, a local housing authority, agency or other entity providing or administering a federal or state rental subsidy within the commonwealth under applicable law.

“Member of the household”, a person residing with a tenant or co-tenant as an authorized occupant of the premises. In the case of an application for housing, such term shall include a person identified by the applicant as a proposed household member who would be living with the applicant in the premises.

“Owner”, as defined in 105 C.M.R. 410.020.

“Qualified third party”, a police officer, as defined by section 1 of chapter 90C, law enforcement professional including, but not limited to, a district attorney, assistant district attorney, a victim-witness advocate, probation or parole officer; an employee of the Victims Services Unit of the department of criminal justice information services; an application assistant in the address confidentiality program of the state secretary under section 2 of chapter 9A; a licensed medical care provider; an employee of the department of children and families or the department of transitional assistance charged with providing direct service to clients, or a manager or designated domestic violence or abuse advocate within either department; an active licensed social worker; a licensed mental health professional; a sexual assault counselor as defined in section 20J of chapter 233; or a domestic violence victims' counselor as defined in section 20K of said chapter 233.

“Quitting date”, the date that a tenant or co-tenant surrenders such person's interest in the premises; provided further, that such date shall be determined as: (i) if the tenant or co-tenant has vacated the premises, the date notice is given to the owner of the intent to abandon the premises and not to return; or (ii) if the tenant or co-tenant has not vacated the premises, either (A) the date the tenant or co-tenant intends to vacate the premises or (B) the actual date that the tenant or co-tenant has vacated after providing such notice.

“Rape”, as set forth in sections 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265 or sections 2, 3 or 17 of chapter 272.

“Sexual assault”, as set forth in sections 13B, 13B 1/2 , 13B 3/4 , 13F, 13H or 13K of chapter 265 or section 35A of chapter 272.

“Stalking”, stalking as set forth in section 43 of chapter 265 or criminal harassment as set forth in sections 43 or 43A of chapter 265.

“Tenant”, (i) a person who has entered into an oral or written lease or rental agreement with the owner or (ii) a person who remains on the premises after such person's tenancy has terminated or after the expiration of such person's lease.

**Termination of rental agreement or tenancy by victim of domestic violence, rape, sexual assault or stalking**

MASS. GEN. LAWS ANN. 186 § 24

(a) A tenant or co-tenant may terminate a rental agreement or tenancy and quit the premises upon written notification to the owner that a member of the household is a victim of domestic violence, rape, sexual assault or stalking, if such notification is made within 3 months of the most recent act of domestic violence, rape, sexual assault or stalking; or if a member of a tenant's household is reasonably in fear of imminent serious physical harm from domestic violence, rape, sexual assault or stalking. An owner shall have the right to request proof of the status as a victim of domestic violence, rape, sexual assault or stalking, including the name of the perpetrator, if known, as provided in subsection (e).

(b) Within 3 months of written notification to the owner to terminate a rental agreement or tenancy under subsection (a), a tenant, co-tenant or any household member who is not the perpetrator of the domestic violence, rape, sexual assault or stalking shall quit the premises. If the tenant or co-tenant fails to quit the premises within 3 months, the notice to terminate the rental agreement or tenancy shall be void.

(c) A tenant or co-tenant to whom this section applies shall be discharged from liability for rent or use and occupancy for 30 days or 1 full rental period after the quitting date, whichever last occurs, to the extent that a rental agreement and applicable law may otherwise impose such liability beyond the quitting date. Such tenant or co-tenant shall be entitled to a refund of any prepaid rent for any period thereafter. The tenant or co-tenant shall receive a full and specific statement of the basis for retaining any of the security deposit together with any refund due in compliance with section 15B within 30 days of the conclusion of the tenancy and the delivery of full possession of the leased premises by all occupants to the landlord.

(d) No other tenant or co-tenant who is a party to the rental agreement shall be released from such tenant's or co-tenant's obligations under the rental agreement or other obligations under this chapter. If the tenant or co-tenant to whom this section applies vacates but leaves belongings, such belongings shall be deemed abandoned and may be disposed of under applicable law, unless the tenant or co-tenant indicates in writing the responsibility for such belongings and the action to be taken with respect to such belongings. If the tenant or co-tenant to whom this section applies vacates, but another person remains in the premises other than another tenant or co-tenant, nothing in this section shall affect the owner's rights and obligations with regard to such remaining person. A landlord who in good faith initiates an action against a remaining tenant, co-tenant or household member, or a housing subsidy provider who terminates or denies a rental subsidy to a remaining tenant, co-tenant or household member, or takes any other action under this section, shall not be subject to a claim of retaliation or any other claim under this chapter.

(e) If relief is sought because of recent or ongoing domestic violence, rape, sexual assault or

stalking, an owner may request that proof be provided to show that a protective order or third-party verification is in effect or was obtained within the prior 3 months, or a tenant or co-tenant is reasonably in fear of imminent serious physical harm. Proof of status as a victim of domestic violence, rape, sexual assault or stalking shall be satisfied by production of any 1 of the following documents:

- (1) a copy of a valid protection order under chapter 209A or 258E obtained by the tenant, co-tenant or member of the household;
- (2) a record from a federal, state or local court or law enforcement of an act of domestic violence, rape, sexual assault or stalking and the name of the perpetrator if known; or
- (3) a written verification from any other qualified third party to whom the tenant, co-tenant or member of the tenant or co-tenant's household reported the domestic violence, rape, sexual assault or stalking; provided, however, that the verification shall include the name of the organization, agency, clinic or professional service provider and include the date of the domestic violence, rape, sexual assault or stalking, and the name of the perpetrator if known; and provided, further, that any adult victim who has the capacity to do so shall provide a statement, under the penalty of perjury, that the incident described in such verification is true and correct.

(f) An owner or housing subsidy provider who obtains written proof of status as a victim of domestic violence, rape, sexual assault or stalking shall keep such documentation and the information contained in the documentation confidential, and shall not provide or allow access to such documentation in any way to any other person or agency, unless the victim provides written authorization for the release of such information or unless required by court order, government regulation or governmental audit requirements.

.....

**Refusal of rental agreement or assistance based on termination of rental agreement under Sec. 24 or request for change of lock under Sec. 26 prohibited**

MASS. GEN. LAWS ANN. 186 § 25

An owner shall not refuse to enter into a rental agreement, nor shall a housing subsidy provider deny assistance, based on an applicant having terminated a rental agreement under section 24 or based upon an applicant having requested a change of locks under section 26.

.....

**Change of locks upon request of tenant, co-tenant or household member believed to be under imminent threat of domestic violence, rape, sexual assault or stalking**MASS. GEN. LAWS ANN. 186 § 26

- (a) For purposes of this section, the term “household member” shall mean a person residing with the tenant or co-tenant as an authorized occupant of the premises, and who is 18 years of age or older or an emancipated minor.
- (b) An owner shall, upon the request of a tenant, co-tenant or a household member, change the locks of the individual dwelling unit in which the tenant, co-tenant or household member lives if the tenant, co-tenant or household member reasonably believes that the tenant, co-tenant or household member is under an imminent threat of domestic violence, rape, sexual assault or stalking at the premises. An owner shall have the right to request, in good faith, proof of the status as a victim of domestic violence, rape, sexual assault or stalking, including the name of the perpetrator, if known, as provided in subsection (e) of section 24.
- (c) If the threat of domestic violence, rape, sexual assault or stalking is posed by a person who is a tenant, co-tenant or household member, the owner may change the locks and deny a key to the alleged perpetrator upon receipt of a request to change the locks; provided, however, that such request shall be accompanied by: (i) a copy of a valid protective order issued under chapter 209A or chapter 258E issued against a tenant, co-tenant or household member; or (ii) a record from a federal, state or local court or law enforcement, indicating that a tenant, co-tenant or household member thereof poses an imminent threat of domestic violence, rape, sexual assault or stalking.
- (d) An owner who has received notice of a request for change of locks under this section shall, within 2 business days, make a good faith effort to change the locks or give the tenant, co-tenant or household member permission to change the locks. If the owner changes the locks, the owner shall make a good faith effort to give a key to the new locks to the tenant, co-tenant or household member requesting the lock change as soon as possible, but within the same 2 business day period. An owner may charge a fee for the expense of changing the locks. The fee shall not exceed the reasonable price customarily charged for changing such locks in that community.
- (e) If an owner fails to change the locks after receipt of a request under this section within 2 business days, the tenant, co-tenant or household member may change the locks without the owner’s permission. If the rental agreement requires that the owner retain a key to the leased residential premises and if a tenant, co-tenant or household member changes the locks, the tenant, co-tenant or household member shall make a good faith effort to provide a key to the new locks to the owner within 2 business days of the locks being changed. If a tenant, co-tenant or household member changes the locks without the owner’s permission, such person shall change the locks in a workmanlike manner with locks of similar or better quality than the original locks. An owner may replace a lock installed by the tenant, co-tenant or household member, or seek reimbursement for additional costs incurred, if the owner believes that the locks were not of equal or better quality or were not installed properly, and such action shall be deemed not to be in retaliation.
- (f) If the locks are changed under this section, a tenant, co-tenant or household member shall not

voluntarily give the new key to the perpetrator. An owner who refuses to provide a key to any person based on the reasonable belief that such person is the perpetrator of alleged domestic violence, rape, sexual assault or stalking, shall not be liable for such refusal.

(g) An owner who takes action to prevent the tenant, co-tenant or household member who has complied with subsection (b) from changing the locks, or any owner who changes the locks but fails to make a good faith effort to provide a key to the tenant, co-tenant or household member requesting the lock change as provided in subsection (d), shall be liable for actual and consequential damages or 3 months' rent, whichever is greater, and the costs of the action, including reasonable attorneys' fees, all of which may be applied in setoff or recoupment against any claim for rent owed or owing for use and occupancy. Damages shall not be imposed if the court determines that the owner acted in good faith.

**Jurisdiction of courts to restrain violation of Secs. 23 to 26; applicability of other laws to requests to change locks**

MASS. GEN. LAWS ANN. 186 § 27

The superior court, housing court, district court and Boston municipal court shall have jurisdiction in equity to restrain violations of sections 23 to 26, inclusive. Section 18 of this chapter and section 2A of chapter 239 shall apply to an act taken in reprisal against a person for requesting that locks be changed under section 26.

Notwithstanding sections 23 to 26, inclusive, if a court has issued a protective order under chapter 209A, or any other law, ordering a tenant, co-tenant or member of the household to vacate the dwelling unit, the owner shall not interfere with the order and upon a request to change the locks as described in section 26, shall comply with such request.

**Waivers of Secs. 23 to 27 void and unenforceable**

MASS. GEN. LAWS ANN. 186 § 28

A waiver of sections 23 to 27, inclusive, in any lease or other rental agreement, except as otherwise provided by law or by federal, state or local regulation shall be void and unenforceable.

**Owner immunity from liability**

MASS. GEN. LAWS ANN. 186 § 29

(a) An owner complying with sections 23 to 28, inclusive, or with the requirements of an order under chapter 209A or any other law, shall be relieved of any liability to the vacated tenant, co-tenant or member of the tenant's household, or to any other third party on account of the owner's good faith compliance with a court order or changing the locks as provided in section 26 including, but not limited to, withholding a key from the alleged perpetrator, as provided in subsection (c) of section 26. Damages shall not be imposed if the court determines that the matter was of a good faith dispute between the owner and tenants.

(b) Notwithstanding any general or special law to the contrary, any owner who demonstrates that such owner's conduct constituted a good faith effort to comply with sections 23 to 29, inclusive, shall not be liable for multiple damages or for attorney's fees.

.....  
**Definitions**

MASS. GEN. LAWS ANN. 9A § 1

For the purposes of this chapter the following words shall, unless the context requires otherwise, have the following meanings:--

“Abuse”, as provided in section 1 of chapter 209A.

“Address”, a residential street, school or work address of an individual, as specified on the application to be a program participant under this chapter.

“Program participant”, a person certified by the state secretary to participate in the program.

“Application assistant”, an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault, or stalking and who has been designated by the respective agency, and trained, accepted and registered by the state secretary to assist individuals in the completion of program participation applications.

“Secretary”, the state secretary.

“Rape”, as provided in sections 22, 22A, 22B, 22C and 23, 23A, 23B of chapter 265 and sections 2, 4 and 17 of chapter 272.

“Sexual assault”, as provided in sections 13B, 13B 1/2 , 13B3/4 , 13F, 13H, 24, 24B, 26D and 50 of chapter 265 and sections 4A,17, 29A, 29B and 35A of chapter 272.

“Stalking”, as provided in section 43 of chapter 265.

**Address confidentiality program; application and certification procedures; false information; penalty**

MASS. GEN. LAWS ANN. 9A § 2

There is hereby established an address confidentiality program to be administered by the secretary under the following application and certification procedures:

(1) Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply

to the secretary to have an address designated by the secretary serve as the person's address or the address of the minor or incapacitated person.

(2) The secretary shall approve an application only if it is filed with the office of the secretary in the manner established by regulation, and on a form prescribed by the secretary. A completed application shall contain:

(i) the application preparation date, the applicant's signature and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;

(ii) a designation of the secretary as agent for purposes of service of process and for receipt of first-class mail;

(iii) the mailing address where the applicant may be contacted by the secretary, or his designee, and the telephone number or numbers where the applicant may be called by the secretary or his designee; and,

(iv) one or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.

(3) Upon receipt of a properly completed application, the secretary shall certify the applicant as a program participant. An applicant shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date.

(4) The secretary shall forward all first class mail to the appropriate program participants.

(5) A person who knowingly provides false or incorrect information in an application or who knowingly falsely attests that disclosure of the applicant's address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made, shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than six months in a house of correction and by cancellation of program certification.

### **Cancellation of certification**

#### MASS. GEN. LAWS ANN. 9A § 3

Certification for the program may be canceled if one or more of the following conditions applies:

(1) If the program participant obtains a name change, the participant loses certification as a program participant. A participant who has obtained a legal name change may apply to the secretary for recertification in the program if documentation of the legal name change is provided.

(2) If there is a change in the residential street address from the one listed on the application,

unless the program participant provides the secretary with notice of the change in such manner as the secretary shall provide by regulation.

(3) Pursuant to paragraph (5) of section 2, the secretary shall cancel certification of a program participant who knowingly provides false information.

**Acceptance of address designations by secretary as a substitute address for program participants**

MASS. GEN. LAWS ANN. 9A § 4

Upon demonstration by a program participant of his certification in the program, state and local agencies shall accept the address designated by the secretary as a program participant's substitute address when creating a new public record unless the secretary has determined that:

- (1) The agency has a bona fide statutory or administrative requirement for the use of the participant's actual residential address, such that it is unable to fulfill its statutory duties and obligations without such residential address; and
- (2) The participant's actual residential address will be used only for those statutory and administrative purposes.

**Availability of program participant's address for inspection or copying**

MASS. GEN. LAWS ANN. 9A § 5

The secretary shall not make a program participant's address, other than the address designated by the secretary, available for inspection or copying, except under the following circumstances:

- (1) If requested of the secretary by the chief commanding officer of a law enforcement agency or his designee in the manner provided for by regulation.
- (2) Upon request to the secretary by a commissioner of a state agency, or his specific designee, in the manner provided for by regulation and upon a showing of a bona fide statutory or administrative requirement for the use of the participant's actual residential address, such that it is unable to fulfill its statutory duties and obligations without such residential address.
- (3) To a person identified in a court order, upon the secretary's receipt of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefor.
- (4) If certification has been canceled due to provision of false or incorrect information in an application or knowingly falsely attesting that disclosure of the applicant's address threatens the safety of the applicant or the applicants children or the minor or incapacitated person on whose behalf the application is made, as provided for in paragraph (5) of section 2.

**Application and supporting materials not classified as public record; exemption from mandatory disclosure**

MASS. GEN. LAWS ANN. 9A § 6

The program participant's application and supporting materials shall not be a public record and shall be exempt from the mandatory disclosure requirements of clause Twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66.

**Regulations**

MASS. GEN. LAWS ANN. 9A § 7

The secretary shall promulgate regulations to carry out the provisions of this chapter and in doing so may consult with the secretary of health and human services and Jane Doe Inc., Massachusetts Coalition Against Sexual Assault and Domestic Violence.

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**Regional public housing innovation program; goals; application for participation in program; funds; powers and projects**

MASS. GEN. LAWS ANN. 121B § 38D

(a)(1) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

...

“Housing authority”, a housing authority established pursuant to section 3.

...

“Program”, the regional public housing innovation program under this section.

...

“Regional housing authority”, a housing authority established pursuant to section 3A.

...

(e) Regional housing authorities participating in the program shall, in addition to those powers conferred in this chapter, have the following powers:

...

(iii) to establish, and include as part of the annual plan required by subsection (h), local methods of tenant or homeowner selection; provided, however, that the method shall be fair, objective, public and shall not discriminate against an applicant based on a protected category in chapter 151B or violate other fair housing laws or department policies and

# MASSACHUSETTS

provides admissions preferences for homeless households, veterans and victims of domestic violence;

...

.....

# MICHIGAN

Michigan has enacted the following law regarding survivors' housing rights:

- Early lease termination by the victim. MICH. COMP. LAWS § 554.601b.
- Protection orders restraining a party from entering the premises. MICH. COMP. LAWS § 600.2950.
- Landlord can terminate lease for perpetrator, but not victim. MICH. COMP. LAWS § 600.5714.

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## **Rental agreements; release from payment obligation of tenant having reasonable apprehension of present danger from domestic violence, sexual assault, or stalking**

MICH. COMP. LAWS § 554.601b

Sec. 1b.

(1) A tenant who has a reasonable apprehension of present danger to the tenant or his or her child from domestic violence, sexual assault, or stalking while that person is a tenant shall be released from his or her rental payment obligation in accordance with the requirements of this section after submittal of written notice of his or her intent to seek a release and written documentation that the tenant has a reasonable apprehension of present danger to the tenant or his or her child from domestic violence, sexual assault, or stalking. Submittal of written notice shall be made by certified mail. A rental agreement may contain a provision stating "A tenant who has a reasonable apprehension of present danger to him or her or his or her child from domestic violence, sexual assault, or stalking may have special statutory rights to seek a release of rental obligation under MCL 554.601b." If the rental agreement does not contain such a provision, the landlord shall post written notice visible to a reasonable person in the landlord's property management office or deliver written notice to the tenant when the lease agreement is signed. The content of the written notice shall be identical to the provision in this section.

(2) The tenant shall include in the submittal required under subsection (1) a written statement that the tenant or a child of the tenant has a reasonable apprehension of present danger from domestic violence, sexual assault, or stalking. For purposes of releasing a tenant from his or her obligation to pay rent, the tenant is released from an obligation to pay rent no later than the first day of the second month that rent is due after notice is given. A release of a rental obligation under this section does not apply to prepaid amounts, including, but not limited to, prepayment of first and last months' rent. A release of rental obligation under this section does not take effect before the tenant vacates the premises. Nothing in this section shall prevent a landlord from

withholding security deposits pursuant to section 13(1)(d).<sup>1</sup> This subsection does not affect other sums that may be withheld by the landlord under this act or other applicable law.

(3) The requirement in subsection (1) that a tenant provide written documentation that the tenant has a reasonable apprehension of present danger to the tenant or his or her child from domestic violence, sexual assault, or stalking is satisfied by providing 1 or more of the following written documents to the landlord:

(a) A valid personal protection order or foreign protection order as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h, or an order removing an abusive person from a home under MCL 712A.13a(4), issued by a court of competent jurisdiction that remains in effect on the date of submittal.

(b) A valid probation order, conditional release order, or parole order that is still in effect on the date of submittal if the probation order, conditional release order, or parole order indicates that the individual subject to the order is subject to conditions reasonably necessary to protect the tenant or child of the tenant, including a condition that the individual is to have no contact with the tenant or child of the tenant.

(c) A written police report that has resulted in the filing of charges by the prosecuting attorney that has jurisdiction over the matter if the charges were filed not more than 14 days before submittal of the written notice required under subsection (1).

(d) A written police report that has resulted in the filing of charges by the prosecuting attorney that has jurisdiction over the matter if the charges were filed more than 14 days before submittal of the written notice required under subsection (1). A tenant who uses a police report under this subdivision shall demonstrate a verifiable threat of present danger from domestic violence, sexual assault, or stalking. Filing of the form under subdivision (e) shall be a demonstration of a verifiable threat of present danger from domestic violence, sexual assault, or stalking.

(e) Submittal to the landlord of a report that is verified by a qualified third party in substantially the following form:

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[Name of organization, agency, clinic, professional service provider]

I and/or my \_\_\_\_\_ (child) have/has a reasonable apprehension of present danger from

\_\_\_ domestic violence as defined by MCL 400.1501.

\_\_\_ sexual assault as defined by MCL 750.520a to 750.520l.

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<sup>1</sup> M.C.L.A. § 554.613.

\_\_ stalking as defined by MCL 750.411h or 750.411i.

Briefly describe the incident giving rise to the reasonable apprehension of domestic violence, sexual assault, or stalking: \_\_\_\_\_

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s): \_\_\_\_\_ and at the following location(s):

The incident(s) that I rely on in support of this declaration was/were committed by the following person(s), if known:

I state under penalty of perjury under the laws of the state of Michigan that the foregoing is true and correct. By submitting this statement I do not waive any legally recognized privilege protecting any communications that I may have with the agency or representative whose name appears below or with any other person or entity. I understand that my obligation to pay rent will end no later than the first day of the second month that rent is due after I give notice. My obligation to pay rent does not end until I vacate the premises. I understand that my landlord may keep prepaid amounts, including first and last months' rent and all or part of my security deposit or other amounts as allowed under law.

Dated at \_\_\_\_\_ (city) \_\_\_\_\_, Michigan, this \_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of Tenant or Household Member

I verify under penalty of perjury under the laws of the state of Michigan that I have provided services to the person whose signature appears above and that, based on information communicated to me by the person whose signature appears above, the individual has a reasonable apprehension of present danger to the individual or his or her child from domestic violence, sexual assault, or stalking, and that the individual informed me of the name of the alleged perpetrator of the actions, giving rise to the apprehension if known. This verification does not waive any legally recognized privilege that I, my agency, or any of its representatives have with the person whose signature appears above.

Dated this \_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of authorized officer/employee of (organization, agency, clinic, professional service provider)

\_\_\_\_\_  
License number or organizational tax identification number

Organization name

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Printed address

(4) The landlord shall reveal forwarding address information submitted by the tenant to other individuals only as reasonably necessary to accomplish the landlord's regular and ordinary business purpose. The landlord shall not intentionally reveal forwarding address information or documentation submitted by the tenant under this section to the person that the tenant has identified as the source of the reasonable apprehension of domestic violence, sexual assault, or stalking.

(5) If a rental agreement obligates multiple tenants to be liable for rental obligations and a tenant is released from his or her rental obligations under this section, all other tenants who are parties to the rental agreement remain subject to the rental agreement.

(6) This section applies only to leases entered into, renewed, or renegotiated after the effective date of the amendatory act that added this section.

(7) Nothing in this act shall prejudice a landlord's right to pursue available remedies against other parties under this act.

(8) As used in this section:

(a) "Child" means the minor child residing with the tenant or an adult child who is a legally incapacitated individual as that term is defined in section 1105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1105.

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Qualified third party" means 1 or more of the following:

(i) A sexual assault or domestic violence counselor.

(ii) A health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iii) A mental health professional as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(iv) A member of the clergy, if the clergy member is affiliated with a tax-exempt religious institution under section 501(c)(3) of the internal revenue code<sup>2</sup> that is listed in a telephone directory.

(d) "Sexual assault" means conduct described in sections 520a to 520l of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520l.

(e) "Sexual assault or domestic violence counselor" means a person who is employed at or who volunteers service at a sexual assault or domestic violence crisis center and who, in that capacity, provides advice, counseling, or other assistance to victims of sexual assault or domestic violence and their families.

(f) "Stalking" means that term as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

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**Personal protection orders; conduct subject to restraint; determination of reasonable cause for issuance of order; denial of order; mutuality; application of order; entry of order into law enforcement information network**

MICH. COMP. LAWS § 600.2950

Sec. 2950. (1) Except as provided in subsections (27) and (28), by commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner from doing 1 or more of the following:

(a) Entering onto premises.

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**Summary proceedings to recover possession of premises; circumstances**

MICH. COMP. LAWS § 600.5714

(1) A person entitled to possession of premises may recover possession by summary proceedings in the following circumstances:

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<sup>2</sup> 26 U.S.C.A. § 501.

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(e) When a person holds over premises for 7 days following service of a written notice to quit for termination of the lease after the tenant, a member of the tenant's household, or a person under the tenant's control, on real property owned or operated by the tenant's landlord, has caused or threatened physical injury to an individual. This subdivision applies only if the police department with jurisdiction has been notified that the person, on real property owned or operated by the tenant's landlord, caused or threatened physical injury to an individual. This subdivision does not apply in either of the following cases:

(i) The individual who was physically injured or threatened is the tenant or a member of the tenant's household.

(ii) Application would result in a violation of federal housing regulations.

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# MINNESOTA

Minnesota has enacted the following laws regarding survivors' housing rights:

- A landlord may not restrict a tenant's right to call for police or emergency assistance. MINN. STAT. ANN. § 504B.205.
- Early lease termination. MINN. STAT. ANN. § 504B.206.
- Address confidentiality program. MINN. STAT. ANN. §§ 5B.01, *et seq.*; § 13.045.
- Covenant of landlord and tenant not to allow unlawful activities. MINN. STAT. ANN. § 504B.171.
- Eviction actions; grounds; retaliation defense; combined allegations. MINN. STAT. ANN. § 504B.285.

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## **Residential tenant's right to seek police and emergency assistance**

MINN. STAT. ANN. § 504B.205

**Subdivision 1. Definitions.** In this section, "domestic abuse" has the meaning given in section 518B.01, subdivision 2.

### **Subd. 2. Emergency calls permitted.**

(a) A landlord may not:

(1) bar or limit a residential tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) impose a penalty on a residential tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.

(b) A residential tenant may not waive and a landlord may not require the residential tenant to waive the residential tenant's right to call for police or emergency assistance.

**Subd. 3. Local preemption.** This section preempts any inconsistent local ordinance or rule including, without limitation, any ordinance or rule that:

(1) requires an eviction after a specified number of calls by a residential tenant for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) provides that calls by a residential tenant for police or emergency assistance in response to domestic abuse or any other conduct may be used to penalize or charge a fee to a landlord.

This subdivision shall not otherwise preempt any local ordinance or rule that penalizes a landlord for, or requires a landlord to abate, conduct on the premises that constitutes a nuisance or other disorderly conduct as defined by local ordinance or rule.

**Subd. 4. Residential tenant responsibility.** This section shall not be construed to condone or permit any breach of a lease or of law by a residential tenant including, but not limited to, disturbing the peace and quiet of other tenants, damage to property, and disorderly conduct.

**Subd. 5. Residential tenant remedies.** A residential tenant may bring a civil action for a violation of this section and recover from the landlord \$250 or actual damages, whichever is greater, and reasonable attorney’s fees.

**Subd. 6. Attorney general authority.** The attorney general has authority under section 8.31 to investigate and prosecute violations of this section.

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**Right of victims of violence to terminate lease**

MINN. STAT. ANN. § 504B.206

**Subdivision 1. Right to terminate; procedure.**

(a) A tenant to a residential lease may terminate a lease agreement in the manner provided in this section without penalty or liability, if the tenant or another authorized occupant fears imminent violence after being subjected to:

- (1) domestic abuse, as that term is defined under section 518B.01, subdivision 2;
- (2) criminal sexual conduct under sections 609.342 to 609.3451; or
- (3) stalking, as that term is defined under section 609.749, subdivision 1.

(b) The tenant must provide signed and dated advance written notice to the landlord:

- (1) stating the tenant fears imminent violence from a person as indicated in a qualifying document against the tenant or an authorized occupant if the tenant or authorized occupant remains in the leased premises;
- (2) stating that the tenant needs to terminate the tenancy;
- (3) providing the date by which the tenant will vacate; and

(4) providing written instructions for the disposition of any remaining personal property in accordance with section 504B.271.

(c) The written notice must be delivered before the termination of the tenancy by mail, fax, or in person, and be accompanied by a qualifying document.

(d) The landlord may request that the tenant disclose the name of the perpetrator and, if a request is made, inform the tenant that the landlord seeks disclosure to protect other tenants in the building. The tenant may decline to provide the name of the perpetrator for safety reasons. Disclosure shall not be a precondition of terminating the lease.

(e) The tenancy terminates, including the right of possession of the premises, as provided in subdivision 3.

**Subd. 2. Treatment of information.**

(a) A landlord must not disclose:

(1) any information provided to the landlord by a tenant in the written notice required under subdivision 1, paragraph (b);

(2) any information contained in the qualifying document;

(3) the address or location to which the tenant has relocated; or

(4) the status of the tenant as a victim of violence.

(b) The information referenced in paragraph (a) must not be entered into any shared database or provided to any person or entity but may be used when required as evidence in an eviction proceeding, action for unpaid rent or damages arising out of the tenancy, claims under section 504B.178, with the consent of the tenant, or as otherwise required by law.

**Subd. 3. Liability for rent; termination of tenancy.**

(a) A tenant who is a sole tenant and is terminating a lease under subdivision 1 is responsible for the rent payment for the full month in which the tenancy terminates. The tenant forfeits all claims for the return of the security deposit under section 504B.178 and is relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section. In a sole tenancy, the tenancy terminates on the date specified in the notice provided to the landlord as required under subdivision 1.

(b) In a tenancy with multiple tenants, one of whom is terminating the lease under subdivision 1, any lease governing all tenants is terminated at the latter of the end of the month or the end of the rent interval in which one tenant terminates the lease under subdivision 1. All tenants are responsible for the rent payment for the full month in which the tenancy terminates. Upon termination, all tenants forfeit all claims for the return of the security deposit under section

504B.178 and are relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section. Any tenant whose tenancy was terminated under this paragraph may reapply to enter into a new lease with the landlord.

(c) This section does not affect a tenant's liability for delinquent, unpaid rent or other amounts owed to the landlord before the lease was terminated by the tenant under this section.

**Subd. 4.** Deleted by amendment, Laws 2014, c. 188, § 2, eff. Aug. 1, 2014.

**Subd. 5. Waiver prohibited.** A residential tenant may not waive, and a landlord may not require the residential tenant to waive, the tenant's rights under this section.

**Subd. 6. Definitions.**

For purposes of this section, the following terms have the meanings given:

(1) “court official” means a judge, referee, court administrator, prosecutor, probation officer, or victim's advocate, whether employed by or under contract with the court, who is authorized to act on behalf of the court;

(2) “qualified third party” means a person, acting in an official capacity, who has had in-person contact with the tenant and is:

(i) a licensed health care professional operating within the scope of the license;

(ii) a domestic abuse advocate, as that term is defined in section 595.02, subdivision 1, paragraph (l); or

(iii) a sexual assault counselor, as that term is defined in section 595.02, subdivision 1, paragraph (k);

(3) “qualifying document” means:

(i) a valid order for protection issued under chapter 518B;

(ii) a no contact order currently in effect, issued under section 629.75 or chapter 609;

(iii) a writing produced and signed by a court official, acting in an official capacity, documenting that the tenant or authorized occupant is a victim of domestic abuse, as that term is defined under section 518B.01, subdivision 2, criminal sexual conduct, under sections 609.342 to 609.3451, or stalking, as that term is defined under section 609.749, subdivision 1, and naming the perpetrator, if known;

(iv) a writing produced and signed by a city, county, state, or tribal law enforcement official, acting in an official capacity, documenting that the tenant or authorized occupant

is a victim of domestic abuse, as that term is defined under section 518B.01, subdivision 2, criminal sexual conduct, under sections 609.342 to 609.3451, or stalking, as that term is defined under section 609.749, subdivision 1, and naming the perpetrator, if known; or

(v) a statement by a qualified third party, in the following form:

STATEMENT BY QUALIFIED THIRD PARTY

I, ..... (name of qualified third party), do hereby verify as follows:

1. I am a licensed health care professional, domestic abuse advocate, as that term is defined in section 595.02, subdivision 1, paragraph (l), or sexual assault counselor, as that term is defined in section 595.02, subdivision 1, paragraph (k), who has had in-person contact with ..... (name of victim(s)).

2. I have a reasonable basis to believe ..... (name of victim(s)) is a victim/are victims of domestic abuse, criminal sexual conduct, or stalking and fear(s) imminent violence against the individual or authorized occupant if the individual remains (the individuals remain) in the leased premises.

3. I understand that the person(s) listed above may use this document as a basis for gaining a release from the lease.

I attest that the foregoing is true and correct.

(Printed name of qualified third party)

(Signature of qualified third party)

(Business address and business telephone)

(Date)

**Subd. 7. Conflicts with other laws.** If a federal statute, regulation, or handbook permitting termination of a residential tenancy subsidized under a federal program conflicts with any provision of this section, then the landlord must comply with the federal statute, regulation, or handbook.

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**Data protection for victims of violence**

**Findings; Purpose**

MINN. STAT. ANN. § 5B.01

The legislature finds that individuals attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state

and local agencies to respond to requests for data without disclosing the location of a victim of domestic violence, sexual assault, or stalking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, or stalking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for all purposes.

## **Definitions**

### MINN. STAT. ANN. § 5B.02

(a) For purposes of this chapter and unless the context clearly requires otherwise, the definitions in this section have the meanings given them.

(b) “Address” means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(c) “Applicant” means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in section 524.5-102.

(d) “Domestic violence” means an act as defined in section 518B.01, subdivision 2, paragraph (a), and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(e) “Eligible person” means an adult, a minor, or an incapacitated person, as defined in section 524.5-102 for whom there is good reason to believe (i) that the eligible person is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made. An individual must reside in Minnesota in order to be an eligible person. A person registered or required to register as a predatory offender under section 243.166 or 243.167, or the law of another jurisdiction, is not an eligible person.

(f) “Mail” means first class letters and flats delivered via the United States Postal Service, including priority, express, and certified mail, and excluding packages, parcels, periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a state or county government agency.

(g) “Program participant” means an individual certified as a program participant under section 5B.03.

(h) “Stalking” means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

**Address confidentiality program**MINN. STAT. ANN. § 5B.03

**Subdivision 1. Application.** The secretary of state shall certify an eligible person as a program participant when the secretary receives an application that must contain:

- (1) the full legal name of the eligible person;
- (2) a statement by the applicant that the applicant has good reason to believe (i) that the eligible person listed on the application is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made, and (iii) that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime;
- (3) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;
- (4) the phone number or numbers where the applicant or eligible person can be called by the secretary of state;
- (5) the physical residential address of the eligible person, disclosure of which will increase the risk of domestic violence, sexual assault, or stalking;
- (6) if mail cannot be delivered to the residential address of the eligible person, the address to which mail should be sent;
- (7) a statement whether the eligible person would like information on becoming an ongoing absentee ballot recipient pursuant to section 5B.06;
- (8) a statement from the eligible person that gives the secretary of state consent to confirm the eligible person's participation in Safe at Home to a third party who provides the program participant's first and last name and Safe at Home lot number listed on the program participant's card;
- (9) the signature of the applicant, an indicator of the applicant's authority to act on behalf of the eligible person, if appropriate, the name and signature of any individual or representative of any person who assisted in the preparation of the application, and the date on which the application was signed; and
- (10) any other information as required by the secretary of state.

**Subd. 2. Filing.** Applications must be filed with the secretary of state and are subject to the provisions of section 5.15.

**Subd. 3. Certification.** Upon filing a completed application, the secretary of state shall certify

the eligible person as a program participant. Program participants shall be certified for four years following the date of filing unless the certification is canceled, withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

**Subd. 4. Changes in information.** Program participants or applicants must inform the secretary of state of any changes in the information submitted on the application.

**Subd. 5. Designated address.** The secretary of state must designate a mailing address to which all mail for program participants is to be sent.

**Subd. 6. Attaining age of majority.** An individual who became a program participant as a minor assumes responsibility for changes in information and renewal when the individual reaches age 18.

### **Certification cancellation**

#### MINN. STAT. ANN. § 5B.04

- (a) If the program participant obtains a legal change of identity, the participant loses certification as a program participant.
- (b) The secretary of state may cancel a program participant's certification if there is a change in the program participant's legal name or contact information, unless the program participant or the person who signed as the applicant on behalf of an eligible person provides the secretary of state with prior notice in writing of the change.
- (c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.
- (d) The secretary of state may cancel a program participant's certification if the program participant is no longer an eligible person.
- (e) The secretary of state shall cancel certification of a program participant who applies using false information.

### **Use of designated address**

#### MINN. STAT. ANN. § 5B.05

- (a) When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant. The person may not require the program participant to submit any address that could be used to physically locate the participant either as a substitute or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location.
- (b) A program participant may use the address designated by the secretary of state as the program participant's work address.

(c) The Office of the Secretary of State shall forward all mail sent to the designated address to the proper program participants.

(d) If a program participant has notified a person in writing, on a form prescribed by the program, that the individual is a program participant and of the requirements of this section, the person must not knowingly disclose the program participant's name, home address, work address, or school address, unless the person to whom the address is disclosed also lives, works, or goes to school at the address disclosed, or the participant has provided written consent to disclosure of the participant's name, home address, work address, or school address for the purpose for which the disclosure will be made. This paragraph does not apply to records of the judicial branch governed by rules adopted by the Supreme Court or government entities governed by section 13.045.

### **Voting by program participant; absentee ballot**

#### MINN. STAT. ANN. § 5B.06

A program participant who is otherwise eligible to vote may register with the secretary of state as a permanent absentee voter. Notwithstanding section 203B.04, subdivision 5, the secretary of state is not required to send an absentee ballot application prior to each election to a program participant registered as a permanent absentee voter under this section. As soon as practicable before each election, the secretary of state shall determine the precinct in which the residential address of the program participant is located and shall request from and receive from the county auditor or other election official the ballot for that precinct and shall forward the absentee ballot to the program participant with the other materials for absentee balloting as required by Minnesota law. The program participant shall complete the ballot and return it to the secretary of state, who shall review the ballot in the manner provided by section 203B.12, subdivision 2.. If the ballot and ballot materials comply with the requirements of that section, the ballot must be certified by the secretary of state as the ballot of a program participant, and must be forwarded to the appropriate electoral jurisdiction for tabulation along with all other ballots. The name and address of a program participant must not be listed in the statewide voter registration system.

### **Data classification**

#### MINN. STAT. ANN. § 5B.07

#### **Subdivision 1. Classification of data.**

(a) Data collected, created, or maintained by the secretary of state related to applicants, eligible persons, and program participants are private data on individuals as defined by section 13.02, subdivision 12. A consent for release of the address from an applicant, eligible person, or program participant is not effective.

(b) A program participant's name and address maintained by a local government entity in connection with an active investigation or inspection of an alleged health code, building code, fire code, or city ordinance violation allegedly committed by the program participant are private data on individuals as defined in section 13.02.

**Subd. 2. Release of data.**

(a) Upon request from the Bureau of Criminal Apprehension, the secretary of state may share data that are private under subdivision 1 with the Bureau of Criminal Apprehension. Private data received by the Bureau of Criminal Apprehension may be released to a law enforcement agency upon verification that the release will aid the law enforcement agency in responding to an emergency situation or a criminal complaint or conducting an investigation.

(b) Data maintained by the secretary of state, the Bureau of Criminal Apprehension, and law enforcement agencies related to the process for data sharing under this section are nonpublic data as defined in section 13.02 but may be shared among those agencies. Data related to requests received from law enforcement agencies and the Bureau of Criminal Apprehension under this section are private or nonpublic data.

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**Display and release of name prohibited**MINN. STAT. ANN. § 5B.10

**Subdivision 1. Display by landlord.** If a program participant has notified the program participant's landlord in writing that the individual is a program participant and of the requirements of this section, a local ordinance or the landlord must not require the display of the program participant's name at an address otherwise protected under this chapter.

**Subd. 2. Release to local government entity.** A landlord may provide a program participant's name to a local government entity only in response to a specific request made in connection with an active investigation or inspection of an alleged health, building, or fire code violation, or a violation of a city ordinance allegedly committed by the program participant.

**Legal proceedings, protective order**MINN. STAT. ANN. § 5B.11

If a program participant's address is protected under section 5B.05, no person or entity shall be compelled to disclose the participant's actual address during the discovery phase of or during a proceeding before a court or other tribunal unless the court or tribunal finds that:

- (1) there is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution, or litigation cannot proceed; and
- (2) there is no other practicable way of obtaining the information or evidence.

The court must provide the program participant with notice that address disclosure is sought and an opportunity to present evidence regarding the potential harm to the safety of the program participant if the address is disclosed. In determining whether to compel disclosure, the court must consider whether the potential harm to the safety of the participant is outweighed by the interest in disclosure. In a criminal proceeding, the court must order disclosure of a program

participant's address if protecting the address would violate a defendant's constitutional right to confront a witness.

Disclosure of a participant's actual address under this section shall be limited under the terms of the order to ensure that the disclosure and dissemination of the actual address will be no wider than necessary for the purposes of the investigation, prosecution, or litigation.

Nothing in this section prevents the court or other tribunal from issuing a protective order to prevent disclosure of information other than the participant's actual address that could reasonably lead to the discovery of the program participant's location.

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### **Safe at Home program participant data**

MINN. STAT. ANN. § 13.045

#### **Subdivision 1. Definitions.**

As used in this section:

- (1) "program participant" has the meaning given in section 5B.02, paragraph (g);
- (2) "location data" means any data that may be used to physically locate a program participant, including but not limited to the program participant's residential address, work address, and school address, and that is collected, received, or maintained by a government entity prior to the date a program participant's certification expires, or the date the entity receives notice that the program participant has withdrawn from the program, whichever is earlier.
- (3) "identity data" means data that may be used to identify a program participant, including the program participant's name, phone number, e-mail address, address designated under chapter 5B, Social Security number, or driver's license number, and that is collected, received, or maintained by a government entity before the date a program participant's certification expires, or the date the entity receives notice that the program participant has withdrawn from the program, whichever is earlier
- (4) "county recorder" means the county official who performs the functions of the county recorder or registrar of titles to record a document as part of the county real estate document recording system, regardless of title or office; and
- (5) "real property records" means any record of data that is maintained by a county as part of the county real estate document recording system for use by the public.

#### **Subd. 2. Notification of certification.**

(a) A program participant may submit a notice, in writing, to the responsible authority of any government entity other than the county recorder that the participant is certified in the Safe at Home address confidentiality program pursuant to chapter 5B. The notice must include the date

the program participant's program participant's name, names of other program participants in the household, address designated under chapter 5B, program participant signature, certification in the program expires, and any other information specified by the secretary of state. A program participant may submit a subsequent notice of certification, if the participant's certification is renewed. The contents of the notification of certification are private data on individuals.

(b) To affect real property records, including but not limited to documents maintained in a public recording system, data on assessments and taxation, and other data on real property, a program participant must submit a real property notice in writing to the county recorder in the county where the property identified in the real property notice is located. A real property notice must be on a form prescribed by the secretary of state and must include:

- (1) the full legal name of the program participant, including middle name;
- (2) the last four digits of the program participant's Social Security number;
- (3) the designated address of the program participant as assigned by the secretary of state, including lot number;
- (4) the date the program participant's certification in the program expires;
- (5) the legal description and street address, if any, of the real property affected by the notice;
- (6) the address of the Office of the Secretary of State; and
- (7) the signature of the program participant.

Only one parcel of real property may be included in each notice, but more than one notice may be presented to the county recorder. The county recorder may require a program participant to provide additional information necessary to identify the records of the program participant or the real property described in the notice. A program participant must submit a subsequent real property notice for the real property if the participant's certification is renewed. The real property notice is private data on individuals.

**Subd. 3. Classification of identity and location data; sharing and dissemination.**

- (a) Identity and location data on a program participant who submits a notice under subdivision 2, paragraph (a), that are not otherwise classified by law are private data on individuals. Notwithstanding any provision of law to the contrary, private or confidential location data on a program participant who submits a notice under subdivision 2, paragraph (a), may not be shared with any other government entity or nongovernmental entity except as provided in paragraph (b).
- (b) Private or confidential location data on a program participant must not be shared or disclosed by a government entity unless:

- (1) the program participant has expressly consented in writing to sharing or dissemination of the data for the purpose for which the sharing or dissemination will occur;
- (2) the data are subject to sharing or dissemination pursuant to court order under section 13.03, subdivision 6; or
- (3) the data are subject to sharing pursuant to section 5B.07, subdivision 2;
- (4) the location data related to county of residence are needed to provide public assistance or other government services, or to allocate financial responsibility for the assistance or services;
- (5) the data are necessary to perform a government entity's health, safety, or welfare functions, including the provision of emergency 911 services, the assessment and investigation of child or vulnerable adult abuse or neglect, or the assessment or inspection of services or locations for compliance with health, safety, or professional standards; or
- (6) the data are necessary to aid an active law enforcement investigation of the program participant.

(c) Data disclosed under paragraph (b), clauses (4) to (6), may be used only for the purposes authorized in this subdivision and may not be further disclosed to any other person or government entity. Government entities receiving or sharing private or confidential data under this subdivision shall establish procedures to protect the data from further disclosure.

(d) Real property record data are governed by subdivision 4a.

**Subd. 4. Acceptance of alternate address required.** Regardless of whether a notice of certification has been submitted under subdivision 2, a government entity must accept the address designated by the secretary of state as a program participant's address, and is subject to the requirements contained in section 5B.05, paragraphs (a) to (c)

**Subd. 4a. Real property records.** (a) If a program participant submits a notice to a county recorder under subdivision 2, paragraph (b), the county recorder must not disclose the program participant's identity data in conjunction with the property identified in the written notice, unless:

- (1) the program participant has consented to sharing or dissemination of the data for the purpose identified in a writing acknowledged by the program participant;
- (2) the data are subject to sharing or dissemination pursuant to court order under section 13.03, subdivision 6; or
- (3) the secretary of state authorizes the sharing or dissemination of the data under subdivision 4b for the purpose identified in the authorization.

This subdivision does not prevent the county recorder from returning original documents to the individuals that submitted the documents for recording. This subdivision does not prevent the public disclosure of the participant's name and address designated under chapter 5B in the county reception index if the participant's name and designated address are not disclosed in conjunction with location data. Each county recorder shall establish procedures for recording or filing documents to comply with this subdivision. These procedures may include masking identity or location data and making documents or certificates of title containing the data private and not viewable except as allowed by this paragraph. The procedure must comply with the requirements of chapters 386, 507, 508, and 508A and other laws as appropriate, to the extent these requirements do not conflict with this section. The procedures must provide public notice of the existence of recorded documents and certificates of title that are not publicly viewable and the provisions for viewing them under this subdivision. Notice that a document or certificate is private and viewable only under this subdivision or subdivision 4b is deemed constructive notice of the document or certificate.

(b) A real property notice is notice only to the county recorder. A notice that does not conform to the requirements of a real property notice under subdivision 2, paragraph (b), is not effective as a notice to the county recorder. On receipt of a real property notice, the county recorder shall provide a copy of the notice to the person who maintains the property tax records in that county, and provide a copy to the secretary of state at the address specified by the secretary of state in the notice.

(c) Paragraph (a) applies only to the records recorded or filed concurrently with the real property notice specified in subdivision 2, paragraph (b), and real property records affecting the same real property recorded subsequent to the county's receipt of the real property notice.

(d) The prohibition on disclosure in paragraph (a) continues until:

- (1) the program participant has consented to the termination of the real property notice in a writing acknowledged by the program participant;
- (2) the real property notice is terminated pursuant to a court order;
- (3) the program participant no longer holds a record interest in the real property identified in the real property notice; or
- (4) the secretary of state has given written notice to the county recorder who provided the secretary of state with a copy of a participant's real property notice that the program participant's certification has terminated. Notification under this paragraph must be given by the secretary of state within 90 days of the termination.

Upon termination of the prohibition of disclosure, the county recorder shall make publicly viewable all documents and certificates of title relative to the participant that were previously partially or wholly private and not viewable.

**Subd. 4b. Access to real property data; title examination.**

(a) Upon request, the secretary of state may share data regarding a program participant's real property records for the purpose of confirming or denying that the program participant's real property is the property subject to a bona fide title examination. The request must include:

- (1) the name, title, address, and affiliated organization, if applicable, of the person requesting data;
- (2) the purpose for requesting data;
- (3) the requestor's relationship, if any, to the program participant subject to the data; and
- (4) the legal description of the property subject to the title examination and any other information required by the secretary of state to respond to the request.

The secretary of state shall approve or deny a request for access to data within two business days.

(b) In responding to a bona fide request, the secretary of state may respond by an affirmation in writing that the property subject to the title examination is or is not the property subject to a program participant's real property notice. Notwithstanding subdivision 4a, or any law to the contrary, a party examining title may rely conclusively on the information contained in a written affirmation from the secretary of state.

(c) Location data disclosed under this subdivision may be used only for the purposes authorized in this subdivision and may not be further disclosed to any other person. A person receiving private data under this subdivision shall establish procedures to protect the data from further disclosure.

**Subd. 5. Duties of the secretary of state and other government entities limited.**

Nothing in this section establishes a duty for:

- (1) the Office of the Secretary of State to identify other government entities that may hold data on a program participant; or
- (2) the responsible authority of any government entity to independently determine whether it maintains data on a program participant, unless a request is received pursuant to section 13.04 or a notice of certification is submitted pursuant to this section.

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**Covenant of landlord and tenant not to allow unlawful activities**

MINN. STAT. ANN. § 504B.171

**Subdivision 1. Terms of covenant.**

...

(b) In every lease or license of residential premises, whether in writing or parol, the tenant or licensee covenant that the tenant or licensee will not commit an act enumerated under section 504B.206, subdivision 1, paragraph (a), against a tenant or licensee or any authorized occupant.

**Subd. 2. Breach voids right to possession.**

A breach of the covenant created by subdivision 1 voids the tenant's or licensee's right to possession of the residential premises. All other provisions of the lease or license, including but not limited to the obligation to pay rent, remain in effect until the lease is terminated by the terms of the lease or operation of law. If the tenant or licensee breaches the covenant created by subdivision 1, the landlord may bring, or assign to the county or city attorney of the county or city in which the residential premises are located, the right to bring an eviction action against the tenant or licensee. The assignment must be in writing on a form provided by the county or city attorney, and the county or city attorney may determine whether to accept the assignment. If the county or city attorney accepts the assignment of the landlord's right to bring an eviction action:

(1) any court filing fee that would otherwise be required in an eviction action is waived; and

(2) the landlord retains all the rights and duties, including removal of the tenant's or licensee's personal property, following issuance of the writ of recovery of premises and order to vacate and delivery of the writ to the sheriff for execution.

**Subd. 3. Waiver not allowed.** The parties to a lease or license of residential premises may not waive or modify the covenant imposed by this section.

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**Eviction actions; grounds; retaliation defense; combined allegations**

MINN. STAT. ANN. § 504B.285

**Subdivision 1. Grounds.**

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(b) A landlord may not commence an eviction action against a tenant or authorized occupant solely on the basis that the tenant or authorized occupant has been the victim of any of the acts

listed in section 504B.206, subdivision 1, paragraph (a). Nothing in this paragraph should be construed to prohibit an eviction action based on a breach of the lease.

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**Subd. 2. Retaliation defense.**

It is a defense to an action for recovery of premises following the alleged termination of a tenancy by notice to quit for the defendant to prove by a fair preponderance of the evidence that:

(1) the alleged termination was intended in whole or part as a penalty for the defendant's good faith attempt to secure or enforce rights under a lease or contract, oral or written, under the laws of the state or any of its governmental subdivisions, or of the United States; or

(2) the alleged termination was intended in whole or part as a penalty for the defendant's good faith report to a governmental authority of the plaintiff's violation of a health, safety, housing, or building code or ordinance.

If the notice to quit was served within 90 days of the date of an act of the tenant coming within the terms of clause (1) or (2) the burden of proving that the notice to quit was not served in whole or part for a retaliatory purpose shall rest with the plaintiff.

**Subd. 5. Combining allegations.**

(a) An action for recovery of the premises may combine the allegation of nonpayment of rent and the allegation of material violation of the lease, which shall be heard as alternative grounds.

(b) In cases where rent is outstanding, a tenant is not required to pay into court the amount of rent in arrears, interest, and costs as required under section 504B.291 to defend against an allegation by the landlord that the tenant has committed a material violation of the lease.

(c) If the landlord does not prevail in proving material violation of the lease, and the landlord has also alleged that rent is due, the tenant shall be permitted to present defenses to the court that the rent is not owing. The tenant shall be given up to seven days of additional time to pay any rent determined by the court to be due. The court may order the tenant to pay rent and any costs determined to be due directly to the landlord or to be deposited with the court.

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# MISSISSIPPI

Mississippi has enacted the following laws regarding survivors' housing rights:

- Protection orders granting possession to the petitioner of the residence to the exclusion of the respondent. MISS. CODE ANN. § 93-21-15.
- Protection orders requiring the respondent to provide suitable alternate housing to the petitioner. MISS. CODE ANN. § 93-21-15.
- Protection orders requiring the respondent to pay moving expenses. MISS. CODE ANN. § 93-21-15.
- Address confidentiality program. MISS. CODE ANN. § 99-47-1.
- Confidentiality provisions. MISS. CODE ANN. § 93-21-9.
- Exemption from Public Records Act for domestic violence shelters. MISS. CODE ANN. § 93-21-109.
- Payment of housing costs and for damages caused to a dwelling due to domestic violence. MISS. CODE ANN. §§ 99-41-3, 99-41-5.

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## **Domestic abuse protection temporary and final orders**

### MISS. CODE ANN. § 93-21-15

(1)(a) After a hearing is held as provided in Section 93-21-11 for which notice and opportunity to be heard has been granted to the respondent, and upon a finding that the petitioner has proved the existence of abuse by a preponderance of the evidence, the municipal and justice courts shall be empowered to grant a temporary domestic abuse protection order to bring about a cessation of abuse of the petitioner, any minor children, or any person alleged to be incompetent. The relief the court may provide includes, but is not limited to, the following:

...

(iv) Granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or both; or

(v) Prohibiting the transferring, encumbering or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business.

...

(2)(a) After a hearing is held as provided in Section 93-21-11 for which notice and opportunity to be heard has been granted to the respondent, and upon a finding that the petitioner has proved the existence of abuse by a preponderance of the evidence, the chancery or county court shall be empowered to grant a final domestic abuse protection order or approve any consent agreement to bring about a cessation of abuse of the petitioner, any minor children, or any person alleged to be incompetent. In granting a final domestic abuse protection order, the chancery or county court may provide for relief that includes, but is not limited to, the following:

...

(ii) Granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or both;

(iii) When the respondent has a duty to support the petitioner, any minor children, or any person alleged to be incompetent living in the residence or household and the respondent is the sole owner or lessee, granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or both, or by consent agreement allowing the respondent to provide suitable, alternate housing;

...

(vi) Ordering the respondent to pay to the abused person monetary compensation for losses suffered as a direct result of the abuse, including, but not limited to, medical expenses resulting from such abuse, loss of earnings or support, out-of-pocket losses for injuries sustained, moving expenses, a reasonable attorney's fee, or any combination of the above;

(vii) Prohibiting the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business;

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**Address confidentiality program**

MISS. CODE ANN. § 99-47-1

(1) **Definitions.** As used in this section:

(a) "Confidential address" means any residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this section.

(b) "Program participant" means a person certified as a program participant under this section.

(c) “Domestic violence” means any of the following acts committed against a current or former spouse, a person living as a spouse or who formerly lived as a spouse or a child of persons living as spouses or who formerly lived as spouses, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person with whom the defendant has a biological or legally adopted child in common, or a person in a current or former dating relationship:

(i) A violation of a domestic violence protection order;

(ii) Simple or aggravated domestic violence as defined in Section 97-3-7(3) or 97-2-7(4); or

(iii) Threats of such acts.

(d) “Sexual assault” means an act as defined in Section 45-33-23(h) as a sex offense.

(e) “Stalking” means an act as defined in Section 97-3-107 or Section 97-45-15.

(f) “Substitute address” means an address designated and assigned by the Office of the Attorney General to a program participant as a substitute mailing address under the Address Confidentiality Program.

(g) “Victim” means an individual against whom domestic violence, sexual assault, or stalking has been committed.

## **(2) Address Confidentiality Program.**

(a) An adult, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply to the Office of the Attorney General to have an address designated by the Office of the Attorney General serve as the substitute address for the person, the minor or the incapacitated person. The Office of the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Office of the Attorney General and if it contains:

(i) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, stalking, or sexual assault, and that the applicant fears for his or her safety, or his or her children’s safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(ii) A designation of the Office of the Attorney General as agent for purposes of services of process and for the purpose of receipt of mail;

(iii) The confidential address where the applicant can be contacted by the Office of the Attorney General, and the telephone number or numbers where the applicant can be contacted by the Office of the Attorney General;

(iv) The confidential address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, stalking, or sexual assault;

(v) A statement of any existing or pending court order or court action involving the applicant that is related to divorce proceedings, child support, child custody, or child visitation; the court that issued each order or has jurisdiction over an action shall be noted;

(vi) The signature of the applicant and a representative of a domestic violence shelter or rape crisis center as designated under subsection (6) who assisted in the preparation of the application;

(vii) The date on which the applicant signed the application; and

(viii) Evidence that the applicant is a victim of domestic violence, sexual assault, or stalking. This evidence shall include at least one (1) of the following:

1. Law enforcement, court or other local, state or federal agency records or files;
2. Documentation from a domestic violence shelter or rape crisis center; or
3. Other form of evidence as determined by the Office of the Attorney General.

(b) Applications shall be filed with the Office of the Attorney General.

(c) Upon approval of an application, the Office of the Attorney General shall certify the applicant as a program participant. Upon certification, the Office of the Attorney General shall issue an Address Confidentiality Program authorization card to the program participant. Applicants shall be certified for four (4) years following the date of certification unless the certification is withdrawn, cancelled or invalidated before that date.

(d) A program applicant who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application or while a program participant, shall be guilty of a misdemeanor, punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a term not to exceed six (6) months.

(e) A fraudulent attempt to gain access to a program participant's confidential address shall constitute a felony, punishable by a fine not to exceed Two Thousand Dollars (\$2,000.00) or by imprisonment in the county jail for a term not to exceed two (2) years.

(f) Knowingly entering the address confidentiality program to evade civil liability or criminal prosecution shall constitute a felony, punishable by a fine not to exceed Two Thousand Dollars (\$2,000.00) or by imprisonment in the county jail for a term not to exceed two (2) years.

(g) A program participant may terminate the certification by filing a notarized request for withdrawal from the program with the Office of the Attorney General.

**(3) Certification cancellation.**

(a) If the program participant obtains a name change, the person's program participation is terminated and the person may immediately reapply for certification under the new name.

(b) The Office of the Attorney General may cancel a program participant's certification if there is a change in the residential address or telephone number from the address or the telephone number listed for the program participant on the application unless the program participant provides the Office of the Attorney General with a minimum of seven (7) days' notice before the change of address occurs.

(c) The Office of the Attorney General may cancel certification of a program participant if mail forwarded by the Office of the Attorney General to the program participant's confidential address is returned as undeliverable or if service of process documents are returned to the Office of the Attorney General as unable to be served.

(d) The Office of the Attorney General shall cancel certification of a program participant who applies using false information.

(e) The Office of the Attorney General shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. That program participant shall have thirty (30) days from receipt of notification of cancellation to appeal the cancellation decisions under procedures adopted by the Office of the Attorney General.

(f) An individual who ceases to be a program participant is responsible for notifying persons, who use the substitute address designated by the Office of the Attorney General as the program participant's address, that the designated substitute address is no longer the individual's address.

(4) **Agency use of designated address.**

(a) Except as otherwise provided in this section, a program participant may request that public bodies use the address designated by the Office of the Attorney General as the participant's substitute address. The program participant, and not the Office of the Attorney General, is responsible for requesting that any public body use the address designated by the Office of the Attorney General as the substitute address of the program participant. If there is any criminal proceeding on behalf of the program participant, the program participant is also responsible for notifying any law enforcement agency and the district attorney's office of the person's participation in the program. There shall be no responsibility on the part of any district attorney's office or any law enforcement agency to request that a public body use the substitute address. Public bodies shall accept the address designated by the Office of the Attorney General as a program participant's substitute address, unless the Office of the Attorney General has determined that:

(i) The public body has a bona fide statutory or administrative requirement for the use of the confidential address of the program participant as defined in this section; and

(ii) The confidential address will be used only for those statutory and administrative purposes.

(b) A program participant may use the substitute address designated by the Office of the Attorney General as his or her work address.

(c) The Office of the Attorney General shall forward all first-class, certified or registered mail to the program participant at the confidential address provided by the program participant. The Office of the Attorney General shall not be required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered.

(d) A program participant's confidential address, telephone number and any other identifying information within the possession of a public body, as defined by Section 25-61-3, shall not constitute a public record within the meaning of the Mississippi Public Records Act of 1983. The program participant's actual address and telephone number shall be confidential and no public body shall disclose the program participant's address, telephone number, or any other identifying information.

(5) **Disclosure of records prohibited; exceptions.** A program participant's confidential address and telephone number and any other identifying information in the possession of the Office of the Attorney General shall not constitute a public record within the meaning of the Mississippi Public Records Act of 1983, and shall not be disclosed during discovery in any criminal prosecution. The Office of the Attorney General shall not make any records in a program participant's file available for inspection or copying other than the address designated by the Office of the Attorney General, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency for official use only, but not to be included in any reports made by the law enforcement agency or required to be produced in discovery in any criminal prosecution;

(b) If directed by a court order, to a person identified in the order; or

(c) To verify, if requested by a public body, the participation of a specific program participant, in which case the Office of the Attorney General may only confirm participation in the program and confirm information supplied by the requester.

(6) **Assistance for program applicants.** The Office of the Attorney General shall refer potential participants to domestic violence shelters or rape crisis centers that provide shelter and counseling services to either victims of domestic violence, stalking, or sexual assault to assist persons applying to be program participants.

(7) **Address Confidentiality Funding.** Expenses of administering the Address Confidentiality Program shall be paid from the Crime Victims' Compensation Fund.

(8) **Immunity.** The Office of the Attorney General and/or its agents and/or employees are immune from civil and/or criminal liability for damages for conduct within the scope and arising out of the performance of the duties imposed under this section. Any district attorney and his agents and employees and any law enforcement agency and its agents and employees are immune from liability, whether civil or criminal, for damages for conduct within the scope and arising out of the program. Any employee or representative of a domestic violence shelter or rape crisis center who acts in good faith to assist a victim complete an application for participation in the Address Confidentiality Program shall be immune from civil and/or criminal liability. Any assistance and/or counseling rendered pursuant to this section, by the Office of the Attorney General, its agents or employees, shall in no way be construed as legal advice.

(9) **Adoption of rules.** The Office of the Attorney General Victim Compensation Division is authorized to adopt rules and regulations as shall be necessary for carrying out the provisions of this section.

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**Contents of petition**

MISS. CODE ANN. § 93-21-9

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(7) If the petition states that the disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, or would reveal the confidential address of a shelter for domestic violence victims, the petitioner's address may be omitted from the petition. If a petitioner's address has been omitted from the petition pursuant to this subsection and the address of the petitioner is necessary to determine jurisdiction or venue, the

disclosure of such address shall be made orally and in camera. A nonpublic record containing the address and contact information of a petitioner shall be maintained by the court to be utilized for court purposes only.

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**Exemption from Public Records Act for domestic violence shelters**

MISS. CODE ANN. § 93-21-109

(1) Records maintained by domestic violence shelters, except the official minutes of the board of directors of the shelter, and financial reports filed as required by statute with the board of supervisors or municipal authorities or any other agency of government, shall be withheld from public disclosure under the provisions of the Mississippi Public Records Act of 1983.

(2) Any employee, contractor, volunteer or agent of a domestic violence shelter, or of any other entity in possession of information which would tend to identify a victim of domestic violence, who discloses any information that is exempt from disclosure under the Mississippi Public Records Act of 1983, or makes any observation or comment about the identity or condition of any person admitted to a shelter or receiving services of a shelter, unless directed to do so by an order of a court of competent jurisdiction, shall be civilly liable to the person whose personal information was disclosed in the amount of Ten Thousand Dollars (\$10,000.00), plus any compensatory damages that the individual may have suffered as the result of the disclosure.

(3)(a) No employee, contractor, volunteer or agent of a domestic violence shelter shall be compelled to testify in any civil matter, or surrender any documents, files, or other records of the shelter, regarding a victim of domestic violence or sexual assault without the consent of the victim, except as provided herein.

...

(4) A resident or staff member of a domestic violence shelter shall not be required to disclose the street address or physical location of that shelter to any public or private agency. In all cases where the provision of a physical address is required, a post office box address for the domestic violence shelter shall be deemed sufficient.

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**Mississippi Crime Victims' Compensation Act- Legislative intent**

MISS. CODE ANN. § 99-41-3

It is the intent of the Legislature to provide a method of compensating those persons who are innocent victims of criminal acts within the state and who suffer bodily injury or death and of assisting victims of crime through information referrals and advocacy outreach programs. To this

end, it is the Legislature's intention to provide compensation for injuries suffered as a direct result of the criminal acts of other persons. It is the further intent of the Legislature that all agencies, departments, boards and commissions of the state and political subdivisions of the state shall cooperate with the Attorney General's Office in carrying out the provisions of this chapter.

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**Mississippi Crime Victims' Compensation Act- Definitions**

MISS. CODE ANN. § 99-41-5

As used in this chapter, unless the context otherwise requires, the term:

(a) "Allowable expense" means reasonable charges incurred for reasonably needed:

...

(iv) Necessary expenses, including, but not limited to, temporary housing and relocation assistance for victims of domestic violence in imminent danger, crime scene cleanup, court-related travel, execution travel, property damage repair and replacement costs for windows, doors, locks or other security devices of a residential dwelling. The division shall establish, by administrative rule, guidelines and monetary limits for such expenses.

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# MISSOURI

Missouri has enacted the following laws regarding survivors' housing rights:

- Victim's right to protection order not compromised by leaving residence. MO. STAT. § 455.020.
- Exclusion of the restrained party from residence. MO. STAT. §§ 455.045, 455.050.
- Abuser's payment of victim's housing costs. MO. STAT. § 455.050.
- Address confidentiality program. MO. STAT. § 589.660, *et seq.*

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## **Relief may be sought--order of protection effective**

### MO. STAT. § 455.020

1. Any person who has been subject to domestic violence by a present or former family or household member, or who has been the victim of stalking, may seek relief under sections 455.010 to 455.085 by filing a verified petition alleging such domestic violence or stalking by the respondent.

2. A person's right to relief under sections 455.010 to 455.085 shall not be affected by the person leaving the residence or household to avoid domestic violence.

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## **Temporary relief available**

### MO. STAT. § 455.045

Any ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from domestic violence or stalking and may include:

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(2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:

- (a) Jointly owned, leased or rented or jointly occupied by both parties; or
- (b) Owned, leased, rented or occupied by petitioner individually; or

(c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than the respondent; provided that the respondent has no property interest in the dwelling unit;

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**Full or ex parte order of protection, abuse or stalking, contents- relief available**

MO. STAT. § 455.050

1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from domestic violence, stalking, or sexual assault and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

...

(2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased, rented or occupied by petitioner individually; or

(c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit;

...

2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.

3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:

...

(5) Order respondent to make or to continue to make rent or mortgage payments on a

residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;

(6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;

(7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;

...

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs;

...

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

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**Address confidentiality program- Definitions**

MO. STAT. § 589.660

As used in sections 589.660 to 589.681, the following terms mean:

(1) **“Address”**, a residential street address, school address, or work address of a person, as specified on the person's application to be a program participant;

(2) **“Application assistant”**, an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic violence, rape, sexual assault, human trafficking, or stalking, who has been designated by the respective agency or program, and who has been trained and registered by the secretary of state to assist individuals in the completion of program participation applications;

- (3) “**Designated address**”, the address assigned to a program participant by the secretary;
- (4) “**Mailing address**”, an address that is recognized for delivery by the United States Postal Service;
- (5) “**Program**”, the address confidentiality program established in section 589.663;
- (6) “**Program participant**”, a person certified by the secretary of state as eligible to participate in the address confidentiality program;
- (7) “**Secretary**”, the secretary of state.

### **Address confidentiality program- Program created, purpose, procedures**

#### MO. STAT. § 589.663

There is created in the office of the secretary of state a program to be known as the “Address Confidentiality Program” to protect victims of domestic violence, rape, sexual assault, human trafficking, or stalking by authorizing the use of designated addresses for such victims and their minor children. The program shall be administered by the secretary under the following application and certification procedures:

- (1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the secretary to have a designated address assigned by the secretary to serve as the person’s address or the address of the minor or incapacitated person;
- (2) The secretary may approve an application only if it is filed with the office of the secretary in the manner established by rule and on a form prescribed by the secretary. A completed application shall contain:
  - (a) The application preparation date, the applicant’s signature, and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;
  - (b) A designation of the secretary as agent for purposes of service of process and for receipt of first-class mail, legal documents, and certified mail;
  - (c) A sworn statement by the applicant that the applicant has good reason to believe that he or she:
    - a. Is a victim of domestic violence, rape, sexual assault, human trafficking, or stalking; and
    - b. Fears further violent acts from his or her assailant;

(d) The mailing address where the applicant may be contacted by the secretary or a designee and the telephone number or numbers where the applicant may be called by the secretary or the secretary's designee; and

(e) One or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household;

(3) Upon receipt of a properly completed application, the secretary may certify the applicant as a program participant. A program participant is certified for four years following the date of initial certification unless the certification is withdrawn or cancelled before that date. The secretary shall send notification of lapsing certification and a reapplication form to a program participant at least four weeks prior to the expiration of the program participant's certification;

(4) The secretary shall forward first-class mail, legal documents, and certified mail to the appropriate program participants.

#### **Address confidentiality program- Cancellation of certification, when**

##### MO. STAT. § 589.666

Certification of a program participant may be cancelled by the secretary if one or more of the following conditions apply:

(1) If the program participant obtains a name change, unless the program participant provides the secretary with documentation of a legal name change within ten business days of the name change;

(2) If there is a change in the mailing address from the person listed on the application, unless the program participant provides the secretary with notice of the change in such manner as the secretary provides by rule; or

(3) The applicant or program participant violates subdivision (2) of section 589.663.

#### **Address confidentiality program- Address accepted as participant's address, when**

##### MO. STAT. § 589.669

Upon demonstration of a program participant's certification in the program, state and local agencies and the courts shall accept the designated address as a program participant's address when creating a new public record unless the secretary has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the address; and

(2) The program participant's address or mailing address shall be used only for those statutory and administrative purposes.

**Address confidentiality program- Availability of participant addresses**

MO. STAT. § 589.672

If the secretary deems it appropriate, the secretary may make a program participant's address or mailing address available for inspection or copying, under the following circumstances:

- (1) If requested of the secretary by a law enforcement agency in the manner provided for by rule; or
- (2) Upon request to the secretary by a director of a state agency or the director's designee in the manner provided for by rule and upon a showing of a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that the director or the director's designee is unable to fulfill statutory duties and obligations without the address or mailing address.

**Address confidentiality program- Inspection and copying of addresses**

MO. STAT. § 589.675

If the secretary deems it appropriate, the secretary shall make a program participant's address and mailing address available for inspection or copying under the following circumstances:

- (1) To a person identified in a court order, upon the secretary's receipt of such court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or
- (2) If the certification has been cancelled because the applicant or program participant violated subdivision (2) of section 589.663.

**Address confidentiality program- Application not a public record**

MO. STAT. § 589.678

A program participant's application and supporting materials are not a public record and shall be kept confidential by the secretary.

**Address confidentiality program- Rulemaking authority**

MO. STAT. § 589.681

The secretary shall promulgate rules to establish and administer the address confidentiality program. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 589.660 to 589.681 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

**Address confidentiality program- Sunset provision not applicable**

MO. STAT. § 589.683

Section 23.253 of the Missouri sunset act shall not apply to any program established pursuant to sections 589.660 to 589.681.

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# MONTANA

Montana has enacted the following laws regarding survivors' housing rights:

- Protection orders removing and excluding the respondent from the residence of the petitioner, regardless of ownership of the residence. MONT. CODE ANN. § 40-15-201.
- Address confidentiality program. MONT. CODE ANN. §§ 40-15-115 — 40-15-121.
- Abuser's payment of survivor's housing costs. MONT. CODE ANN. § 45-5-206.

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## **Temporary order of protection**

### MONT. CODE ANN. § 40-15-201

(1) A petitioner may seek a temporary order of protection from a court listed in 40-15-301. The petitioner shall file a sworn petition that states that the petitioner is in reasonable apprehension of bodily injury or is a victim of one of the offenses listed in 40-15-102, has a relationship to the respondent if required by 40-15-102, and is in danger of harm if the court does not issue a temporary order of protection immediately.

(2) Upon a review of the petition and a finding that the petitioner is in danger of harm if the court does not act immediately, the court shall issue a temporary order of protection that grants the petitioner appropriate relief. The temporary order of protection may include any or all of the following orders:

...

(d) directing the respondent to stay 1,500 feet or other appropriate distance away from the petitioner, the petitioner's residence...or any specified place frequented by the petitioner and by any other designated family or household member;

(e) removing and excluding the respondent from the residence of the petitioner, regardless of ownership of the residence;

...

(g) prohibiting the respondent from transferring, encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life and, if so restrained, requiring the respondent to notify the petitioner, through the court, of any proposed extraordinary expenditures made after the order is issued;

(h) directing the transfer of possession and use of the residence, an automobile, and other essential personal property, regardless of ownership of the residence, automobile, or

essential personal property, and directing an appropriate law enforcement officer to accompany the petitioner to the residence to ensure that the petitioner safely obtains possession of the residence, automobile, or other essential personal property or to supervise the petitioner's or respondent's removal of essential personal property;

...

(3) If the petitioner has fled the parties' residence, notice of the petitioner's new residence must be withheld, except by order of the court for good cause shown.

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**Address confidentiality program- Policy--program**

MONT. CODE ANN. § 40-15-115

(1) It is the policy of this state to ensure the safety and security of a victim of partner or family member assault, sexual assault, or stalking or a person eligible to petition for an order of protection under 40-15-102 by providing the victim or eligible person with certain, limited services.

(2) The assistance and services provided by the state to implement the policy stated in subsection (1) are limited to a program administered by the department that provides to a participant:

(a) a substitute address that can be used by the participant for official purposes; and

(b) a service that allows the department to:

(i) receive service of process and mail addressed to the participant; and

(ii) forward to the participant any process served on the participant and all mail received on the participant's behalf.

**Address confidentiality program- Definitions**

MONT. CODE ANN. § 40-15-116

As used in 40-15-115 through 40-15-121, the following definitions apply:

(1) "Applicant" means a victim and includes a parent or guardian who acts on behalf of a victim.

(2) "Department" means the department of justice.

(3) "Participant" means an applicant who has submitted an application pursuant to 40-15-117 that has been approved by the department.

(4) "Partner or family member assault" has the meaning provided in 45-5-206.

(5) “Sexual assault” means sexual assault as defined in 45-5-502, sexual intercourse without consent as defined in 45-5-503, incest as defined in 45-5-507, or sexual abuse of children as defined in 45-5-625.

(6) “Stalking” has the meaning provided in 45-5-220.

(7) “Victim” means an individual who has been a victim of partner or family member assault, sexual assault, or stalking or who is otherwise eligible to file a petition for an order of protection under 40-15-102.

**Substitute address for participant—application—duties of department--penalty**

MONT. CODE ANN. § 40-15-117

(1) A victim who is a resident of this state may apply to the department to have a substitute address designated by the department to serve as the official address of the applicant.

(2) An application for the issuance of a substitute address must include:

(a) proof that the victim is a resident of this state and specific evidence showing that, before the applicant files the application, the applicant has been a victim;

(b) the address that is requested to be kept confidential;

(c) a telephone number at which the department may contact the applicant;

(d) a question asking whether the applicant wishes to register to vote or, if registered, to change the applicant’s address for voter registration;

(e) a designation of the department as agent for the applicant for the purposes of service of process and receipt of mail;

(f) the signature of the applicant;

(g) the date on which the applicant signed the application; and

(h) any other information required by the department.

(3) The department shall approve or disapprove an application within 5 business days after the application is filed.

(4)

(a) The department:

(i) shall approve an application that is accompanied by specific evidence that the applicant has been a victim within 4 years prior to filing the application; and

(ii) may approve an application if the applicant does not provide specific evidence or the crime against the applicant was committed more than 4 years prior to the applicant filing the application.

(b) Specific evidence that would meet the requirements of this subsection (4) includes but is not limited to a copy of an applicable record of conviction, a temporary restraining order, a protective order granted by a court of competent jurisdiction, or a sworn statement of the victim.

(5) If a participant indicates in response to the question asked in subsection (2)(d) that the participant wishes to register to vote or to change the participant's address used for voter registration:

(a) the department shall furnish the participant with a form developed by the department to register the participant or change the participant's address for voter registration; and

(b) the participant shall complete and sign the form and return it to the department.

(6) A person who knowingly attests falsely or provides incorrect information in the application is guilty of false swearing under 45-7-202.

**Address confidentiality program- Designation of substitute address--forwarding of mail--disclosure of confidential address**

MONT. CODE ANN. § 40-15-118

(1) Upon approving an application, the department shall:

(a) designate a substitute address for the participant;

(b) receive mail addressed to the participant;

(c) forward mail that the department receives on behalf of the participant to the participant.

(2) The department may not divulge in any manner the name of a participant or the confidential address or substitute address of a participant unless:

(a) the participant's name, confidential address, or substitute address is requested by a law enforcement agency, in which case the department shall provide the name, confidential address, or substitute address to the law enforcement agency; or

(b) a court of competent jurisdiction orders the department to make the name, confidential address, or substitute address available, in which case the department shall provide the name, confidential address, or substitute address to the person identified in the order.

**Address confidentiality program- Cancellation of substitute address – cessation of duty**MONT. CODE ANN. § 40-15-119

(1) Except as provided in subsections (2) and (3), the department shall cancel the substitute address of a participant 4 years after the date on which the department approved the participant's application.

(2) The department may not cancel the substitute address of a participant if, before the substitute address of the participant is canceled, the participant shows to the satisfaction of the department that the participant remains in imminent danger of becoming a victim.

(3) The department may cancel the substitute address of a participant at any time if:

(a) the participant changes the participant's confidential address from the confidential address listed in the application and fails to notify the department within 48 hours after the change of confidential address; or

(b) the department determines that the participant knowingly provided false or incorrect information in the application.

(4) When the department cancels the substitute address of a participant, the duty of the department to provide the services described in 40-15-115(2) to the participant ceases.

**Address confidentiality program- Rules**MONT. CODE ANN. § 40-15-120

The department shall adopt rules to carry out the provisions of 40-15-115 through 40-15-121, including rules establishing:

(1) a form on which a victim may apply to participate in the program described in 40-15-115(2);

(2) a form on which an applicant may declare whether the applicant wishes to register to vote or, if registered, to change the applicant's address for voter registration. The form may be a separate form or may be included as an integral part of the application provided for in subsection (1).

(3) procedures necessary to implement the program.

**Address confidentiality program- Implementation by state and local government agencies**

MONT. CODE ANN. § 40-15-121

The department shall issue the participant a substitute address card containing the participant's name, substitute address, and other information that the department determines appropriate. Any state or local government agency that needs or requires the participant's address shall accept and use the address on the card. The agency may make and file a photocopy of the card.

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**Partner or family member assault—penalty**

MONT. CODE ANN. § 45-5-206

...

(4)(a) ... An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.

...

(5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.

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# NEBRASKA

Nebraska has enacted the following laws regarding survivors' housing rights:

- Exclusion of the restrained party from the residence. NEB. REV. STAT. § 42-924.
- Address confidentiality program. NEB. REV. STAT. §§ 42-1201 — 42-1210.

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## **Protection order; when authorized; term; violation; penalty; construction of sections**

NEB. REV. STAT. § 42-924

(1) Any victim of domestic abuse may file a petition and affidavit for a protection order as provided in subsection (2) of this section. Upon the filing of such a petition and affidavit in support thereof, the judge or court may issue a protection order without bond granting the following relief:

...

(d) Removing and excluding the respondent from the residence of the petitioner, regardless of the ownership of the residence;

(e) Ordering the respondent to stay away from any place specified by the court;

...

(h) Ordering such other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

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## **Address confidentiality program- Act, how cited**

NEB. REV. STAT. § 42-1201

Sections 42-1201 to 42-1210 shall be known and may be cited as the Address Confidentiality Act.

## **Address confidentiality program- Findings**

NEB. REV. STAT. § 42-1202

The Legislature finds that persons attempting to escape from actual or threatened abuse, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or

probable assailants from finding them. The purposes of the Address Confidentiality Act are to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of abuse, sexual assault, or stalking, to enable interagency cooperation with the office of the Secretary of State in providing address confidentiality for victims of abuse, sexual assault, or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address.

**Address confidentiality program- Terms, defined**

NEB. REV. STAT. § 42-1203

For purposes of the Address Confidentiality Act:

- (1) Abuse means causing or attempting to cause physical harm, placing another person in fear of physical harm, or causing another person to engage involuntarily in sexual activity by force, threat of force, or duress, when committed by (a) a person against his or her spouse, (b) a person against his or her former spouse, (c) a person residing with the victim if such person and the victim are or were in a dating relationship, (d) a person who formerly resided with the victim if such person and the victim are or were in a dating relationship, (e) a person against a parent of his or her children, whether or not such person and the victim have been married or resided together at any time, (f) a person against a person with whom he or she is in a dating relationship, (g) a person against a person with whom he or she formerly was in a dating relationship, or (h) a person related to the victim by consanguinity or affinity;
- (2) Address means a residential street address, school address, or work address of an individual as specified on the individual's application to be a program participant;
- (3) Dating relationship means an intimate or sexual relationship;
- (4) Program participant means a person certified as a program participant under section 42-1204;
- (5) Sexual assault has the same meaning as in section 28-319, 28-319.01, 28-320, 28-320.01, or 28-386; and
- (6) Stalking has the same meaning as in sections 28-311.02 to 28-311.05.

**Address confidentiality program- Substitute address; application to Secretary of State; approval; certification; renewal; prohibited acts; violation; penalty**

NEB. REV. STAT. § 42-1204

- (1) An adult, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person as defined in section 30-2601 may apply to the Secretary of State to have an address designated by the Secretary of State serve as the substitute address of such adult, minor, or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains:

- (a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of abuse, sexual assault, or stalking and (ii) that the applicant fears for his or her safety, his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;
- (b) A designation of the Secretary of State as agent for purposes of service of process and receipt of mail;
- (c) The mailing address and the telephone number or numbers where the applicant can be contacted by the Secretary of State;
- (d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of abuse, sexual assault, or stalking; and
- (e) The signature of the applicant and of any individual or representative of any office designated in writing under section 42-1209 who assisted in the preparation of the application and the date on which the applicant signed the application.

(2) Applications shall be filed in the office of the Secretary of State.

(3) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Such certification shall be valid for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State may by rule and regulation establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant, the applicant's children, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a Class II misdemeanor.

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**Address confidentiality program- Address or substitute address; use; when**

NEB. REV. STAT. § 42-1206

(1) A program participant may request that state and local agencies use the address designated by the Secretary of State as the program participant's substitute address. When creating a new public record, a state or local agency which has a bona fide statutory, tax situs, or administrative requirement for the participant's residence address may request that the participant verbally provide the agency with such residence address if the agency has the capability to use such address for such bona fide purpose without permanently entering it into the agency's records. If the agency does not have such capability, it shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State determines that:

(a) The state or local agency has a bona fide statutory, tax situs, or administrative requirement for the use of the address which would otherwise be confidential under the Address Confidentiality Act; and

(b) The address will be used only for such bona fide statutory, tax situs, or administrative requirement.

(2) The Secretary of State shall forward all first-class mail to each program participant's substitute address.

**Address confidentiality program- Early voting; authorized**

NEB. REV. STAT. § 42-1207

(1) A program participant who is otherwise qualified to vote may apply to vote early under sections 32-938 to 32-951. The county clerk or election commissioner shall transmit the ballot for early voting to the program participant at the address designated by the program participant in his or her application as an early voter. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

(2) The county clerk or election commissioner shall not make a program participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

**Address confidentiality program- Secretary of State; use of substitute address; exceptions**

NEB. REV. STAT. § 42-1208

The Secretary of State shall not make any records in a program participant's file available for inspection or copying, other than the substitute address designated by the Secretary of State, except under the following circumstances:

(1) If requested of the Secretary of State by the chief commanding officer of a law enforcement agency or the officer's designee in the manner provided for by rules and regulations adopted and promulgated by the Secretary of State;

(2) To a person identified in a court order upon the receipt by the Secretary of State of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefor; or

(3) To verify the participation of a specific program participant, in which case the Secretary of State may only confirm or deny information supplied by the requester.

**Address confidentiality program- Program participants; application assistance**

NEB. REV. STAT. § 42-1209

The Secretary of State shall designate state and local agencies and nonprofit entities that provide counseling and shelter services to victims of abuse, sexual assault, or stalking to assist persons applying to be program participants. Any assistance or counseling rendered by the office of the Secretary of State or its designees to such applicants shall not be deemed legal advice or the practice of law.

**Address confidentiality program- Rules and regulations**

NEB. REV. STAT. § 42-1210

The Secretary of State may adopt and promulgate rules and regulations to carry out the Address Confidentiality Act.

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# NEVADA

Nevada has enacted the following laws regarding survivors' housing rights:

- Unwanted entry into residence can constitute domestic violence. NEV. REV. STAT. § 33.018.
- Exclusion of the restrained party from the protected party's residence. Orders requiring the restrained party to pay rent or make payments on a mortgage on the protected party's place of residence. NEV. REV. STAT. § 33.030.
- Address confidentiality program. NEV. REV. STAT. §§ 217.462–217.471.
- Landlords cannot retaliate against victims of domestic violence for early termination of a lease. NEV. REV. STAT. § 118A.510.
- Early lease termination. NEV. REV. STAT. § 118A.345.
- Form of affidavit for lease termination. NEV. REV. STAT. § 118A.347.
- State required to maintain low-income housing database, including number of units available to survivors of domestic violence. NEV. REV. STAT. § 319.143.

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## Acts which constitute domestic violence

### NEV. REV. STAT. § 33.018

1. Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

...

(g) Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.

...

**Contents of order; interlocutory appeal**

NEV. REV. STAT. § 33.030

1. The court by a temporary order may:

- (a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;
- (b) Exclude the adverse party from the applicant’s place of residence;
- (c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order the adverse party to stay away from any specified place frequented regularly by them;

...

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

- ...
- (c) Order the adverse party to:

- ...
- (2) Pay rent or make payments on a mortgage on the applicant’s place of residence;

...

.....  
**Fictitious address for victim of domestic violence, sexual assault or stalking: Eligibility; application to Secretary of State; penalty for providing false information**

NEV. REV. STAT. § 217.462

1. An adult person, a parent or guardian acting on behalf of a child, or a guardian acting on behalf of an incompetent person may apply to the Attorney General to have a fictitious address designated by the Attorney General serve as the address of the adult, child or incompetent person.

2. An application for the issuance of a fictitious address must include:

- (a) Specific evidence showing that the adult, child or incompetent person has been a victim of domestic violence, human trafficking, sexual assault or stalking before the filing of the application;

- (b) The address that is requested to be kept confidential;
- (c) A telephone number at which the Attorney General may contact the applicant;
- (d) A question asking whether the person wishes to:
  - (1) Register to vote; or
  - (2) Change the address of his or her current registration;
- (e) A designation of the Attorney General as agent for the adult, child or incompetent person for the purposes of:
  - (1) Service of process; and
  - (2) Receipt of mail;
- (f) The signature of the applicant;
- (g) The date on which the applicant signed the application; and
- (h) Any other information required by the Attorney General.

3. It is unlawful for a person knowingly to attest falsely or provide incorrect information in the application. A person who violates this subsection is guilty of a misdemeanor.

4. The Attorney General shall approve an application if it is accompanied by specific evidence, such as a copy of an applicable record of conviction, a temporary restraining order or other protective order, that the adult, child or incompetent person has been a victim of domestic violence, human trafficking, sexual assault or stalking before the filing of the application.

5. The Attorney General shall approve or disapprove an application for a fictitious address within 5 business days after the application is filed.

**Fictitious address for victim of domestic violence, sexual assault or stalking: Designation of fictitious address; forwarding of mail; disclosure of confidential address by Secretary of State, notification of school that pupil, parent or legal guardian is participant**

NEV. REV. STAT. § 217.464

1. If the Attorney General approves an application, the Attorney General shall:

- (a) Designate a fictitious address for the participant; and
- (b) Forward mail that the Attorney General receives for a participant to the participant.

2. The Attorney General shall not make any records containing the name, confidential address or fictitious address of a participant available for inspection or copying, unless:

(a) The address is requested by a law enforcement agency, in which case the Attorney General shall make the address available to the law enforcement agency; or

(b) The Attorney General is directed to do so by lawful order of a court of competent jurisdiction, in which case the Attorney General shall make the address available to the person identified in the order.

3. If a pupil is attending or wishes to attend a public school that is located outside the zone of attendance as authorized by paragraph (c) of subsection 2 of NRS 388.040 or a public school that is located in a school district other than the school district in which the pupil resides as authorized by NRS 392.016, the Attorney General shall, upon request of the public school that the pupil is attending or wishes to attend, inform the public school of whether the pupil is a participant and whether the parent or legal guardian with whom the pupil resides is a participant. The Attorney General shall not provide any other information concerning the pupil or the parent or legal guardian of the pupil to the public school.

**Fictitious address for victim of domestic violence, sexual assault or stalking: Form for participant to register to vote or change address of registration**

NEV. REV. STAT. § 217.466

If a participant indicates to the Attorney General that the participant wishes to register to vote or change the address of his or her current registration, the Attorney General shall furnish the participant with the form developed by the Secretary of State pursuant to the provisions of NRS 293.5002.

**Fictitious address for victim of domestic violence, human trafficking, sexual assault or stalking: Cancellation**

NEV. REV. STAT. § 217.468

1. Except as otherwise provided in subsections 2 and 3, the Attorney General shall cancel the fictitious address of a participant 4 years after the date on which the Attorney General approved the application.

2. The Attorney General shall not cancel the fictitious address of a participant if, before the fictitious address of the participant is cancelled, the participant shows to the satisfaction of the Attorney General that the participant remains in imminent danger of becoming a victim of domestic violence, human trafficking, sexual assault or stalking.

3. The Attorney General may cancel the fictitious address of a participant at any time if:

(a) The participant changes his or her confidential address from the one listed in the application and fails to notify the Attorney General within 48 hours after the change of address;

(b) The Attorney General determines that false or incorrect information was knowingly provided in the application; or

(c) The participant files a declaration or acceptance of candidacy pursuant to NRS 293.177 or 293C.185.

**Fictitious address for victim of domestic violence, sexual assault or stalking: Adoption of procedures by Secretary of State**

NEV. REV. STAT. § 217.471

The Attorney General shall adopt procedures to carry out the provisions of NRS 217.462 to 217.471, inclusive.

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**Retaliatory conduct by landlord against tenant prohibited; remedies; exceptions**

NEV. REV. STAT. § 118A.510

1. Except as otherwise provided in subsection 3, the landlord may not, in retaliation, terminate a tenancy, refuse to renew a tenancy, increase rent or decrease essential items or services required by the rental agreement or this chapter, or bring or threaten to bring an action for possession if:

...

(h) The tenant or, if applicable, a cotenant or household member, is a victim of domestic violence or terminates a rental agreement pursuant to NRS 118A.345.

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**Right of tenant or cotenant to terminate lease due to domestic violence.**

NEV. REV. STAT. § 118A.345

1. Notwithstanding any provision in a rental agreement to the contrary, if a tenant, cotenant or household member is the victim of domestic violence, the tenant or any cotenant may terminate the rental agreement by giving the landlord written notice of termination effective at the end of the current rental period or 30 days after the notice is provided to the landlord, whichever occurs sooner.

2. The written notice provided to a landlord pursuant to subsection 1 must describe the reason for the termination of the rental agreement and be accompanied by:

(a) A copy of an order for protection against domestic violence issued to the tenant, cotenant or household member who is the victim of domestic violence;

- (b) A copy of a written report from a law enforcement agency indicating that the tenant, cotenant or household member notified the law enforcement agency of the domestic violence; or
  - (c) A copy of a written affidavit in the form prescribed pursuant to NRS 118A.347 and signed by a qualified third party acting in his or her official capacity stating that the tenant, cotenant or household member is a victim of domestic violence and identifying the adverse party.
3. A tenant or cotenant may terminate a rental agreement pursuant to this section only if the actions, events or circumstances that resulted in the tenant, cotenant or household member becoming a victim of domestic violence occurred within the 90 days immediately preceding the written notice of termination to the landlord.
4. A tenant or cotenant who terminates a rental agreement pursuant to this section is only liable, if solely or jointly liable for purposes of the rental agreement, for any rent owed or required to be paid through the date of termination and any other outstanding obligations. If the tenant or cotenant has prepaid rent that would apply for the rental period in which the rental agreement is terminated, the landlord may retain the prepaid rent and no refund is due to the tenant or cotenant unless the amount of the prepaid rent exceeds what is owed for that rental period. Except as otherwise provided in NRS 118A.242, if the tenant or cotenant has paid a security deposit, the deposit must not be withheld for the early termination of the rental agreement if the rental agreement is terminated pursuant to this section.
5. A person who is named as the adverse party may be civilly liable for all economic losses incurred by a landlord for the early termination of a rental agreement pursuant to this section, including, without limitation, unpaid rent, fees relating to early termination, costs for the repair of any damages to the dwelling and any reductions in or waivers of rent previously extended to the tenant or cotenant who terminates the rental agreement pursuant to this section.
6. A landlord shall not provide to an adverse party any information concerning the whereabouts of a tenant, cotenant or household member if the tenant or cotenant provided notice pursuant to subsection 1.
7. If a tenant or cotenant provided notice pursuant to subsection 1, the tenant, the cotenant or a household member may require the landlord to install a new lock onto the dwelling if the tenant, cotenant or household member pays the cost of installing the new lock. A landlord complies with the requirements of this subsection by:
- (a) Rekeying the lock if the lock is in good working condition; or
  - (b) Replacing the entire locking mechanism with a new locking mechanism of equal or superior quality.
8. A landlord who installs a new lock pursuant to subsection 7 may retain a copy of the new key. Notwithstanding any provision in a rental agreement to the contrary, the landlord shall:

- (a) Refuse to provide a key which unlocks the new lock to an adverse party.
  - (b) Refuse to provide to an adverse party, whether or not that party is a tenant, cotenant or household member, access to the dwelling to reclaim property unless a law enforcement officer is present.
9. This section shall not be construed to limit a landlord's right to terminate a rental agreement for reasons unrelated to domestic violence.
10. Notwithstanding any other provision of law, the termination of a rental agreement pursuant to this section:
- (a) Must not be disclosed, described or characterized as an early termination by a current landlord to a prospective landlord; and
  - (b) Is not required to be disclosed as an early termination by a tenant or cotenant to a prospective landlord.
11. As used in this section:
- (a) "Adverse party" means a person who is named in an order for protection against domestic violence, a written report from a law enforcement agency or a written statement from a qualified third party and who is alleged to be the cause of the early termination of a rental agreement pursuant to this section.
  - (b) "Cotenant" means a tenant who, pursuant to a rental agreement, is entitled to occupy a dwelling that another tenant is also entitled to occupy pursuant to the same rental agreement.
  - (c) "Domestic violence" means the commission of any act described in NRS 33.018.
  - (d) "Household member" means any person who is related by blood or marriage and is actually residing with a tenant or cotenant.
  - (e) "Qualified third party" means:
    - (1) A physician licensed to practice in this State;
    - (2) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry of the American Osteopathic Association;
    - (3) A psychologist licensed to practice in this State;
    - (4) A social worker licensed to practice in this State;

(5) A registered nurse holding a master’s degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(6) A marriage and family therapist or clinical professional counselor licensed to practice in this State pursuant to chapter 641A of NRS;

(7) Any person employed by an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met and who is licensed to provide health care pursuant to the provisions of title 54 of NRS, or is a member of the board of directors or serves as the executive director of an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met; or

(8) Any member of the clergy of a church or religious society or denomination that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501 (c)(3), who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination.

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**Form of affidavit for written notice terminating lease due to domestic violence.**

NEV. REV. STAT. § 118A.347

An affidavit submitted by a tenant or cotenant pursuant to NRS 118A.345 must be in substantially the following form:

(Name of the qualified third party, as defined in NRS 118A.345, including, if applicable, the name of the organization with which the qualified third party is affiliated)

I (and/or) .....  
(name of cotenant or household member)

am a victim of domestic violence as defined in NRS 118A.345.

Brief description of incident(s) constituting domestic violence:

The incident(s) that I described above occurred on the following date(s) and time(s), and in the following locations:

The incident(s) that I described above were committed by the following person(s):

I state under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this ..... day of ....., 20....., at ..... (city), Nevada,

(Signature of tenant, cotenant or household member)

I verify that the person whose signature appears above was a victim of domestic violence and that the person informed me of the name of the adverse party as defined in NRS 118A.345.

Dated this ..... day of ....., 20....., at ..... (city), Nevada,

(Signature of qualified third party)

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**Division required to create and maintain statewide low-income housing database**

NEV. REV. STAT. § 319.143

1. The Division shall create and maintain a statewide low-income housing database.
2. The database must include, without limitation, the compilation and analysis of demographic, economic and housing data from a variety of sources that:
  - (a) Provides for an annual assessment of the affordable housing market at the city and county level, including data relating to housing units, age of housing, rental rates and rental vacancy rates, new home sales and resale of homes, new construction permits, mobile homes, lots available for mobile homes and conversions of multifamily condominiums;
  - (b) Addresses the housing needs of various population groups in Nevada, such as households that rent, homeowners, elderly households, veterans, persons with disabilities or special needs, homeless persons, recovering drug abusers, persons suffering from mental health ailments and victims of domestic violence, with each group distinguished to show the percentage of the population group at different income levels, and a determination of the number of households within each special-needs group experiencing housing costs greater than 50 percent of their income, overcrowding or substandard housing;
  - (c) Contains an estimate of the number and condition of subsidized and other low-income housing units at the county level and the identification of any subsidized units that are forecast to convert to market-rate units within a 2-year planning period;
  - (d) Provides a demographic and economic overview by local and county jurisdiction, if feasible, for the population of Nevada, including age, race and ethnicity, household size,

migration, current and forecast employment, household income and a summary relating to the effects of demographics and economic factors on housing demand;

(e) Provides the number of housing units available to a victim of domestic violence from any housing authority, as defined in NRS 315.021, and from participation in the program of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f; and

(f) Provides the number of terminations of victims of domestic violence in this State from the program of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f.

3. The costs of creating and maintaining the database:

(a) Must be paid from the Account for Low-Income Housing created by NRS 319.500; and

(b) May not exceed \$175,000 per year.

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# NEW HAMPSHIRE

New Hampshire has enacted the following laws regarding survivors' housing rights:

- Prohibition on discrimination against victims of domestic violence, sexual assault, or stalking; lock changes; exclusion of perpetrator from unit. N.H. REV. STAT. ANN. § 540:2.
- Exclusion of perpetrator from unit. N.H. REV. STAT. ANN. § 540:2.
- Eviction defense for victims of domestic violence, sexual assault, and stalking. N.H. REV. STAT. ANN. § 540:2.
- Partial eviction of perpetrator. N.H. REV. STAT. ANN. § 540:14.
- Orders providing exclusive use and possession of the home. N.H. REV. STAT. ANN. §§ 173-B:4, 173-B:5.
- Orders barring the restrained party from taking any action which would lead to the discontinuance of existing contracts, including mortgage or rental agreements. N.H. REV. STAT. ANN. § 173-B:4.
- Address confidentiality program. N.H. REV. STAT. ANN. §§ 7:41-7:48.

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## **Actions against tenants- Termination of tenancy**

N.H. REV. STAT. ANN. § 540:2

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VII.(a) No lessor or owner of restricted property shall terminate a tenancy solely based on a tenant or a household member of a tenant having been a victim of domestic violence as defined in RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a, provided that the tenant or household member of a tenant who is the victim provides the lessor or owner with written verification that the tenant or household member of a tenant who is the victim has obtained a valid protective order against the perpetrator of the domestic violence, sexual assault, or stalking.

(b) A tenant who has obtained a protective order from a court of competent jurisdiction granting him or her possession of a dwelling to the exclusion of one or more other tenants or household members may request that a lock be replaced or configured for a new key at the tenant's expense. The lessor or owner shall, if provided a copy of the protective order, comply with the request and shall not give copies of the new keys to the tenant or household member restrained or excluded by the protective order.

(c) A lessor or owner who replaces a lock or configures a lock for a new key in accordance with subparagraph (b) shall not be liable for any damages that result directly from the lock replacement or reconfiguration.

(d) If, after a hearing in the possessory action, the court finds that there are grounds under this section to evict the tenant or household member accused of the domestic violence, sexual assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against the person accused, and allow the tenancy of the remainder of the residents to continue undisturbed. The lessor or owner of the rental unit at issue in the possessory action shall have the right to bar the person accused of the domestic violence, sexual assault, or stalking from the unit and from the lessor's or owner's property once judgment in the possessory action becomes final against such person. Thereafter, and notwithstanding RSA 635:2, the person's entry upon the lessor's or owner's property after being notified in writing that he or she has been barred from the property shall constitute a trespass.

(e) Nothing in this section shall preclude eviction for nonpayment of rent. A landlord may evict on any grounds set forth in RSA 540:2, II which are unrelated to domestic violence, sexual assault, or stalking.

(f) The defense set forth in subparagraph VII(a) shall be an affirmative defense to possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

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**Actions against tenants- Judgment**

N.H. REV. STAT. ANN. § 540:14

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IV. If the court renders judgment against any one tenant or member of a multiperson household pursuant to RSA 540:2, VII(d), the court shall specify in its order that the writ of possession shall only be used to remove the tenant or household member against whom the judgment issued, and that the other tenants or household members may remain in residence.

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**Protection of persons from domestic violence- Temporary relief**

N.H. REV. STAT. ANN. § 173-B:4

I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a circuit court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing judge. If non-telephonic temporary orders are made

ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:

(a) Protective orders:

...

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides.

...

(8) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

...

(b) Other relief, including but not limited to:

(1) Awarding to the plaintiff the exclusive use and possession of an automobile, home, and household furniture, if the defendant has the legal duty to support the plaintiff or the plaintiff's minor children, or the plaintiff has contributed to the household expenses. The court shall consider the type and amount of contribution to be a factor.

(2) Restraining the defendant from taking any action which would lead to the disconnection of any and all utilities and services to the parties' household, or the discontinuance of existing business or service contracts, including, but not limited to, mortgage or rental agreements.

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**Protection of persons from domestic violence- Relief**

N.H. REV. STAT. ANN. § 173-B:5

I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the

control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other relief may include:

(a) Protective orders:

...

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court.

...

(b) Other relief including, but not limited to:

(1) Granting the plaintiff the exclusive use and possession of the premises and curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.

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IV. No order made under this section shall supersede or affect any court order pertaining to the possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C, or 169-D; support or custody made under RSA 458; or custody of children of unwed parents as determined by a circuit court, or title to real or personal property.

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**Address confidentiality program- Findings and purpose**

N.H. REV. STAT. ANN. § 7:41

The legislature finds that persons attempting to escape from actual or threatened domestic violence, stalking, or sexual assault frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this program is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, stalking, or sexual assault, to enable interagency cooperation with the attorney general in providing address confidentiality for victims of domestic violence, stalking, or sexual assault, and to enable state and local agencies to accept a program participant's use of an address designated by the attorney general as a substitute mailing address.

**Address confidentiality program- Definitions**

N.H. REV. STAT. ANN. § 7:42

As used in this subdivision:

I. “Address” means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this subdivision.

II. “Program participant” means a person certified as a program participant under RSA 7:43.

III. “Domestic violence” means an act as defined in RSA 173-B and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

IV. “Sexual assault” means an act as defined in RSA 632-A.

V. “Stalking” means an act as defined in RSA 633:3-a.

**Address confidentiality program**

N.H. REV. STAT. ANN. § 7:43

I. An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply to the attorney general to have an address designated by the attorney general serve as the person's address or the address of the minor or incapacitated person. The attorney general shall approve an application if it is filed in the manner and on the form prescribed by the attorney general and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, stalking, or sexual assault; and that the applicant fears for his or her safety, or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the attorney general as agent for purposes of service of process and for the purpose of receipt of mail;

(c) The mailing address where the applicant can be contacted by the attorney general, and the phone number or numbers where the applicant can be called by the attorney general;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, stalking, or sexual assault; and

(e) The signature of the applicant and the date on which the applicant signed the application.

II. Applications shall be filed with the attorney general.

III. Upon filing a properly completed application, the attorney general shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date.

IV. A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be guilty of a class B misdemeanor.

**Address confidentiality program- Certification cancellation**

N.H. REV. STAT. ANN. § 7:44

I. If the program participant obtains a name change, he or she loses certification as a program participant and may immediately reapply for certification under his or her new name.

II. The attorney general may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the attorney general notice of the change of address within 7 days.

III. The attorney general may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

IV. The attorney general shall cancel certification of a program participant who applies using false information.

**Address confidentiality program- Agency use of designated address**

N.H. REV. STAT. ANN. § 7:45

I. A program participant may request that state and local agencies use the address designated by the attorney general as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the attorney general as a program participant's substitute address, unless the attorney general had determined that:

(a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this subdivision; and

(b) This address will be used only for those statutory and administrative purposes.

II. A program participant may use the address designated by the attorney general as his or her work address.

III. The attorney general shall forward all first class mail to the appropriate program participants.

**Address confidentiality program- Voting by program participants.**

N.H. REV. STAT. ANN. § 7:46

I. A program participant who is otherwise qualified to vote may apply as an absentee voter. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual is domiciled in the same manner as absentee voters pursuant to RSA 657:15. Notwithstanding RSA 654, neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

II. The city or town clerk shall not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency; and
- (b) If directed by a court order, to a person identified in the order.

**Address confidentiality program- Disclosure of records prohibited; exceptions.**

N.H. REV. STAT. ANN. § 7:47

The attorney general shall not make any records in a program participant's file available for inspection or copying, other than the address designated by the attorney general, except under the following circumstances:

- I. If requested by a law enforcement agency, to the law enforcement agency;
- II. If directed by a court order, to a person identified in the order;
- III. If certification has been cancelled; or
- IV. To verify the participation of a specific program participant, in which case the attorney general may only confirm participation in the program.

**Address confidentiality program- Assistance for program applicants.**

N.H. REV. STAT. ANN. § 7:48

The attorney general shall refer participants to crisis centers that provide counseling and shelter services to either victims of domestic violence, stalking, or sexual assault to assist persons applying to be program participants.

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# NEW JERSEY

New Jersey has enacted the following laws regarding survivors' housing rights:

- Early lease termination by the victim. N.J. STAT. ANN. §§ 46:8-9.5, *et seq.*
- Abuser can be excluded from the unit. N.J. STAT. ANN. §§ 2A:18-53, 18-61.1.
- Orders granting exclusive possession to a protected party. N.J. STAT. ANN. § 2C:25-29.
- Orders requiring the restrained party to pay the protected party's housing expenses. N.J. STAT. ANN. § 2C:25-29.
- Prohibition on in-house restraining orders. N.J. STAT. ANN. § 2C:25-28.1.
- Address Confidentiality Program. N.J. STAT. ANN. §§ 47:4-1, *et seq.*
- Confidentiality for domestic violence victims. N.J. STAT. ANN. §§ 30:14-13, 46:8-9.11, 2C:25-33.

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## **Legislative findings and declarations; reduction of domestic violence**

N.J. STAT. ANN. § 46:8-9.5

The Legislature finds and declares:

- a. Domestic violence is a serious crime that materially affects the health and safety of numerous New Jersey tenants and there are thousands of persons in this State who are regularly beaten, tortured, sexually assaulted and, in some cases, killed by their spouses or cohabitants;
- b. The inability to terminate a lease and its corresponding financial obligations may prevent domestic violence victims from leaving abusive relationships and seeking help;
- c. Domestic violence victims require an efficient method of terminating their lease obligations to escape abuse without that damaging their credit and rental history and, consequently, their ability to secure other safe housing; and
- d. The assistance and cooperation of the entire community, including landlords, neighbors, and employers, is necessary to reduce the incidence of domestic violence in our State.

## **Early termination of residential lease; conditions permitting termination**

N.J. STAT. ANN. § 46:8-9.6

The tenant may terminate any lease of a residential property that has been leased and used by the tenant solely for the purpose of providing a dwelling place for the tenant, or for the tenant's

family, prior to the expiration date thereof, if the tenant fulfills all requirements and procedures as established by P.L.2008, c. 111 (C.46:8-9.4 et al.) and provides the landlord with:

- a. written notice that the tenant or a child of the tenant faces an imminent threat of serious physical harm from another named person if the tenant remains on the leased premises; and
- b. any of the following:
  - (1) a certified copy of a permanent restraining order issued by a court pursuant to section 13 of "The Prevention of Domestic Violence Act of 1991," P.L.1991, c. 261 (C.2C:25-29), and protecting the tenant from the person named in the written notice;
  - (2) a certified copy of a permanent restraining order from another jurisdiction, issued pursuant to the jurisdiction's laws concerning domestic violence, and protecting the tenant from the person named in the written notice;
  - (3) a law enforcement agency record documenting the domestic violence, or certifying that the tenant or a child of the tenant is a victim of domestic violence;
  - (4) medical documentation of the domestic violence provided by a health care provider;
  - (5) certification, provided by a certified Domestic Violence Specialist, or the director of a designated domestic violence agency, that the tenant or a child of the tenant is a victim of domestic violence; or
  - (6) other documentation or certification, provided by a licensed social worker, that the tenant or a child of the tenant is a victim of domestic violence.

**Date of termination; payment of rent; holding over of co-tenants**

N.J. STAT. ANN. § 46:8-9.7

- a. Lease terminations pursuant to section 3 of P.L.2008, c. 111 (C.46:8-9.6) shall take effect on the thirtieth day following receipt by the landlord of notice complying with section 3 of P.L.2008, c. 111 (C.46:8-9.6), unless the landlord and tenant agree on an earlier termination date. The rent shall be paid, pro rata, up to the time a lease terminates pursuant to this section.
- b. A lease terminates under section 3 of P.L.2008, c. 111 (C.46:8-9.6) only if the victim of domestic violence acts in good faith and fulfills all requirements and procedures as established by section 3 of P.L.2008, c. 111 (C.46:8-9.6) in terminating the lease.
- c. If there are tenants on the lease other than the tenant who has given notice of termination as described in section 3 of P.L.2008, c. 111 (C.46:8-9.6), those co-tenants' lease also terminates, notwithstanding any provisions in section 2 of P.L.1974, c. 49 (C.2A:18-61.1) requiring certain grounds for eviction to the contrary. The co-tenants may enter into a new lease, for a new term, at the option of the landlord. Nothing in this section shall prohibit any co-tenants of the victim of domestic violence from holding over if holding over is permitted by the landlord.

**Public housing or redevelopment agency leases; notice requirements**

N.J. STAT. ANN. § 46:8-9.8

Where the leased premises are under the control of a public housing authority or redevelopment agency, the victim of domestic violence shall give notice in accordance with any relevant regulations pertaining to public housing leases. When the terms of the tenancy are controlled by a publicly-funded housing assistance contract, notice and security deposit terms, requirements, and protections shall conform and be subject to restrictions, limitations or other requirements imposed by State or federal law.

**Waiver of rights and remedies under the act disallowed**

N.J. STAT. ANN. § 46:8-9.9

The parties to a lease agreement creating a tenancy in residential rental property may not agree to waive any rights or remedies arising under P.L.2008, c. 111 (C.46:8-9.4 et al.)

**Effect upon leases existing at time prior to act**

N.J. STAT. ANN. § 46:8-9.10

Nothing in P.L.2008, c. 111 (C.46:8-9.4 et al.) shall operate to alter, limit or impair the terms of lease agreements existing at the time of the adoption of P.L.2008, c. 111 (C.46:8-9.4 et al.)

**Confidentiality of domestic violence information within landlord’s knowledge**

N.J. STAT. ANN. § 46:8-9.11

A landlord shall not disclose information documenting domestic violence that has been provided to the landlord by a victim of domestic violence pursuant to section 3 of P.L.2008, c. 111 (C.46:8-9.6). The information shall not be entered into any shared database or provided to any person or entity, but may be used when required as evidence in an eviction proceeding, action for unpaid rent or damages arising out of the tenancy, with the consent of the tenant, or as otherwise required by law.

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**Removal of tenant in certain cases; jurisdiction**

N.J. STAT. ANN. § 2A:18-53

Except for residential lessees and tenants included in section 2 of this act, any lessee or tenant at will or at sufferance, or for a part of a year, or for one or more years, of any houses, buildings, lands or tenements, and the assigns, undertenants or legal representatives of such tenant or lessee, may be removed from such premises by the Superior Court, Law Division, Special Civil Part in an action in the following cases:

...

- c. Where such person (1) shall be so disorderly as to destroy the peace and quiet of the landlord or the other tenants or occupants living in said house or the neighborhood, or (2)

shall willfully destroy, damage or injure the premises, or (3) shall constantly violate the landlord's rules and regulations governing said premises, provided, such rules have been accepted in writing by the tenant or are made a part of the lease; or (4) shall commit any breach or violation of any of the covenants or agreements in the nature thereof contained in the lease for the premises where a right of re-entry is reserved in the lease for a violation of such covenants or agreements, and shall hold over and continue in possession of the demised premises or any part thereof, after the landlord or his agent for that purpose has caused a written notice of the termination of said tenancy to be served upon said tenant, and a demand that said tenant remove from said premises within three days from the service of such notice. The notice shall specify the cause of the termination of the tenancy, and shall be served either personally upon the tenant or such person in possession by giving him a copy thereof, or by leaving a copy thereof at his usual place of abode with some member of his family above the age of 14 years.

.....

**Removal of residential tenants; grounds**

N.J. STAT. ANN. § 2A:18-61.1

No lessee or tenant or the assigns, under-tenants or legal representatives of such lessee or tenant may be removed by the Superior Court [other than those persons residing in certain types of housing listed or]... except upon establishment of one of the following grounds as good cause:

...

b. The person has continued to be, after written notice to cease, so disorderly as to destroy the peace and quiet of the occupants or other tenants living in said house or neighborhood.

c. The person has willfully or by reason of gross negligence caused or allowed destruction, damage or injury to the premises.

d. The person has continued, after written notice to cease, to substantially violate or breach any of the landlord's rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term.

...

(2) In public housing under the control of a public housing authority or redevelopment agency, the person has substantially violated or breached any of the covenants or agreements contained in the lease for the premises pertaining to illegal uses of controlled dangerous substances, or other illegal activities...

...

r. The person is found in a civil action, by a preponderance of the evidence, to have committed a violation of the human trafficking provisions set forth in section 1

of P.L.2005, c. 77 (C.2C:13-8) within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located; or, being the tenant or lessee of such leased premises, knowingly harbors or harbored therein a person who has been engaged in human trafficking, or otherwise permits or permitted such a person to occupy those premises for residential purposes, whether continuously or intermittently. No action for removal may be brought pursuant to this subsection more than two years after the alleged violation has terminated. A criminal conviction or a guilty plea to a crime of human trafficking under section 1 of P.L.2005, c. 77 (C.2C:13-8) shall be considered prima facie evidence of civil liability under this subsection.

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**Hearing; factors considered; orders for relief**

N.J. STAT. ANN. § 2C:25-29

...

b. In proceedings in which complaints for restraining orders have been filed, the court shall grant any relief necessary to prevent further abuse. ...At the hearing the judge of the Family Part of the Chancery Division of the Superior Court may issue an order granting any or all of the following relief:

...

(2) An order granting exclusive possession to the plaintiff of the residence or household regardless of whether the residence or household is jointly or solely owned by the parties or jointly or solely leased by the parties. This order shall not in any manner affect title or interest to any real property held by either party or both jointly. If it is not possible for the victim to remain in the residence, the court may order the defendant to pay the victim’s rent at a residence other than the one previously shared by the parties if the defendant is found to have a duty to support the victim and the victim requires alternative housing.

...

(8) An order requiring that the defendant make or continue to make rent or mortgage payments on the residence occupied by the victim if the defendant is found to have a duty to support the victim or other dependent household members; provided that this issue has not been resolved or is not being litigated between the parties in another action.

.....

**In-house restraining orders prohibited**

N.J. STAT. ANN. § 2C:25-28.1

Notwithstanding any provision of P.L.1991, c. 261 (C.2C:25-17 et seq.) to the contrary, no order issued by the Family Part of the Chancery Division of the Superior Court pursuant to section 12 or section 13 of P.L.1991, c. 261 (C.2C:25-28 or 2C:25-29) regarding emergency, temporary or

final relief shall include an in-house restraining order which permits the victim and the defendant to occupy the same premises but limits the defendant’s use of that premises.

.....

**Short title; Address Confidentiality Program Act**

N.J. STAT. ANN. § 47:4-1

This act shall be known and may be cited as the “Address Confidentiality Program Act.”

.....

**Address confidentiality program- Legislative findings and declarations**

N.J. STAT. ANN. § 47:4-2

The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses to prevent their assailants from finding them. The purpose of this act is to enable public agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Secretary of State in providing address confidentiality for victims of domestic violence, and to enable public agencies to accept a program participant’s use of an address designated by the Secretary of State as a substitute mailing address.

.....

**Address confidentiality program- Definitions**

N.J. STAT. ANN. § 47:4-3

As used in this act:

“Address” means a residential street address, school address, or work address of a person, as specified on the person's application to be a program participant under this act.

“Program participant” means a person certified by the Secretary of State as eligible to participate in the Address Confidentiality Program established by this act.

“Department” means the Department of State.

“Domestic violence” means an act defined in section 3 of P.L.1991, c. 261 (C.2C:25-19), if the act has been reported to a law enforcement agency or court.

“Secretary” means the Secretary of State.

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**Address Confidentiality Program created**N.J. STAT. ANN. § 47:4-4

a. There is created in the department a program to be known as the “Address Confidentiality Program.” A person 18 years of age or over, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the secretary to have an address designated by the secretary as the applicant’s address. The secretary shall approve an application if it is filed in the manner and on the form prescribed by the secretary and if it contains:

- (1) a sworn statement by the applicant that the applicant has good reason to believe:
  - (a) that the applicant is a victim of domestic violence as defined in this act; and
  - (b) that the applicant fears further violent acts from the applicant's assailant;
- (2) a designation of the secretary as agent for the purpose of receiving process and for the purpose of receipt of mail;
- (3) the mailing address where the applicant can be contacted by the secretary, and a telephone number where the applicant can be called;
- (4) the new address or addresses that the applicant requests not be disclosed because of the increased risk of domestic violence; and
- (5) the signature of the applicant and any person who assisted in the preparation of the application, and the date.

b. An application shall be filed with the secretary.

c. Upon approving a completed application, the secretary shall certify the applicant as a program participant. An applicant shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date.

d. A program participant may apply to be recertified every four years thereafter.

e. A program participant may use the address designated by the secretary as his or her work address.

f. Upon receipt of first class mail addressed to a program participant, the secretary or a designee shall forward the mail to the actual address of the participant. The secretary may arrange to receive and forward other kinds and classes of mail for any program participant at the participant's expense. The actual address of a program participant shall be available only to the secretary and to those employees involved in the operation of the address confidentiality program and to law enforcement officers for law enforcement purposes.

g. The secretary, in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

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**Address Confidentiality Program- Cancellation of program participant's participation**

N.J. STAT. ANN. § 47:4-5

The secretary may cancel a program participant's certification if:

- (1) the program participant obtains a name change through an order of the court;
- (2) the program participant changes the participant's residential address and does not provide seven days' advance notice to the secretary;
- (3) mail forwarded by the secretary to the address or addresses provided by the program participant is returned as undeliverable; or
- (4) any information on the application is false.

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**Address Confidentiality Program- Use of address designated by agency**

N.J. STAT. ANN. § 47:4-6

A program participant may request that any State or local agency use the address designated by the secretary as the program participant's address. The agency shall accept the address designated by the secretary as a program participant's address, unless the agency has demonstrated to the satisfaction of the secretary that:

- (1) the agency has a bona fide statutory basis for requiring the program participant to disclose to it the actual location of the program participant; and
- (2) the disclosed confidential address of the program participant will be used only for that statutory purpose and will not be disclosed or made available in any way to any other person or agency.

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**Confidentiality for persons seeking shelter services**

N.J. STAT. ANN. § 30:14-13

Information which may reveal the identity or location of a person seeking shelter services shall not be disclosed, except as otherwise specifically required by law or with the consent of the person seeking shelter services.

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**Confidentiality of domestic violence information within landlord's knowledge**

N.J. STAT. ANN. § 46:8-9.11

A landlord shall not disclose information documenting domestic violence that has been provided to the landlord by a victim of domestic violence pursuant to section 3 of P.L.2008, c. 111 (C.46:8-9.6). The information shall not be entered into any shared database or provided to any person or entity, but may be used when required as evidence in an eviction proceeding, action for unpaid rent or damages arising out of the tenancy, with the consent of the tenant, or as otherwise required by law.

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**Uniform record of applications for relief; information included; confidentiality**

N.J. STAT. ANN. § 2C:25-33

a. The Administrative Office of the Courts shall, with the assistance of the Attorney General and the county prosecutors, maintain a uniform record of all applications for relief pursuant to sections 9, 10, 11, 12, and 13 of P.L.1991, c. 261 (C.2C:25-25, C.2C:25-26, C.2C:25-27, C.2C:25-28, and C.2C:25-29).

...

It shall be the duty of the Director of the Administrative Office of the Courts to compile and report annually to the Governor, the Legislature and the Advisory Council on Domestic Violence on the data tabulated from the records of these orders.

All records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law.

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# NEW MEXICO

New Mexico has enacted the following laws regarding survivors' housing rights:

- Eviction defense for victims of domestic violence. N.M. STAT. ANN. § 47-8-33.
- Orders granting sole possession of the residence to the protected party. N.M. STAT. ANN. § 40-13-5.
- Orders requiring restrained party to provide for alternative housing. N.M. STAT. ANN. § 40-13-5.
- Address confidentiality program. N.M. STAT. ANN. § 40-13-11.
- Limits on internet publication. N.M. STAT. ANN. § 40-13-12.

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## **Breach of agreement by resident and relief by owner**

N.M. STAT. ANN. § 47-8-33

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I. If the resident knowingly commits or consents to another person in the dwelling unit or on the premises knowingly committing a substantial violation, the owner shall deliver a written notice to the resident specifying the time, place and nature of the act constituting the substantial violation and that the rental agreement will terminate upon a date not less than three days after receipt of the notice.

J. In any action for possession under Subsection I of this section, it shall be a defense that the resident is a victim of domestic violence. If the resident has filed for or secured a temporary domestic violence restraining order as a result of the incident that is the basis for the termination notice or as a result of a prior incident, the writ of restitution shall not issue. In all other cases where domestic violence is raised as a defense, the court shall have the discretion to evict the resident accused of the violation, while allowing the tenancy of the remainder of the residents to continue undisturbed.

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**Order of protection; contents; remedies; title to property not affected; mutual order of protection**

N.M. STAT. ANN. § 40-13-5

A. Upon finding that domestic abuse has occurred or upon stipulation of the parties, the court shall enter an order of protection ordering the restrained party to refrain from abusing the protected party or any other household member. The court shall specifically describe the acts the court has ordered the restrained party to do or refrain from doing. As a part of any order of protection, the court may:

(1) grant sole possession of the residence or household to the protected party during the period the order of protection is effective or order the restrained party to provide temporary suitable alternative housing for the protected party and any children to whom the restrained party owes a legal obligation of support;

...

(5) order the restrained party to reimburse the protected party or any other household member for expenses reasonably related to the occurrence of domestic abuse, including medical expenses, counseling expenses, the expense of seeking temporary shelter, expenses for the replacement or repair of damaged property or the expense of lost wages;

...

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**Substitute address**

N.M. STAT. ANN. § 40-13-11

A. A victim of domestic abuse, or the victim’s representative pursuant to Section 31-26-3 NMSA 1978, who has good reason to believe that the victim’s safety is at risk may apply to the secretary of state for the use of the secretary of state as a substitute address. The application shall be on a form provided by the secretary of state and shall include:

(1) a statement that the secretary of state is acting as an agent of the victim for purposes of the forwarding of mail;

(2) a mailing address for forwarding received mail and a telephone number where the victim can be contacted by the secretary of state;

(3) payment of a seventy-five-dollar (\$75.00) application fee, which may be waived if the applicant is indigent; and

(4) the signature of the victim or the victim’s representative.

B. The secretary of state shall maintain a confidential record of applications for a substitute address and forward any mail received on behalf of a victim of domestic abuse to the new mailing address provided on the application.

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**Limits on internet publication**

N.M. STAT. ANN. § 40-13-12

A state agency, court or political subdivision of the state, including a magistrate or municipal court, judicial district, law enforcement agency, county, municipality or home-rule municipality, shall not make available publicly on the internet any information that would likely reveal the identity or location of the party protected under an order of protection. A state agency, court or political subdivision may share court-generated and law enforcement-generated information contained in secure, government registries for protection order enforcement purposes.

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# NEW YORK

New York has enacted the following laws regarding survivors' housing rights:

- Early lease termination. N.Y. REAL PROP. LAW § 227-c; N.Y. CRIM. PROC. §§ 530.12, 530.13; N.Y. DOM. REL. § 240; N.Y. FAMILY CT. ACT §§ 446, 656, 842, & 1056.
- Phone listing confidentiality/new phone number without fee. N.Y. PUB. SERV. LAW § 91; N.Y. GEN. BUS. LAW § 399-yy.
- Address confidentiality program. N.Y. EXEC. LAW § 108.
- Voter registration confidentiality. N.Y. ELEC. LAW § 5-508.
- Service animals to domestic violence survivors. N.Y. SOC. SERV. § 459 – B.
- Prohibitions to housing discrimination based on domestic violence. N.Y. REAL PROP. ACT § 227-D.
- Prohibits evictions based on domestic violence victim. N.Y. REAL PROP. ACT § 744.

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## **Termination of residential lease by victims of domestic violence**

### N.Y. REAL PROP. LAW § 227-c

1. In any lease or rental agreement covering premises occupied for dwelling purposes, a lessee or tenant for whose benefit any order of protection has been issued by a court of competent jurisdiction, shall be permitted to terminate such lease or rental agreement and quit and surrender possession of the leasehold premises, and of the land so leased or occupied pursuant to the provisions of this section and to be released from any liability to pay to the lessor or owner, rent or other payments in lieu of rent for the time subsequent to the date of termination of such lease in accordance with subdivision two of this section.

2.

(a) A lessee or tenant for whose benefit any order of protection has been issued by a court of competent jurisdiction, may, on ten days' notice to the lessor or owner of the premises occupied by such person, and to any co-tenants of such lessee or tenant, seek an order of the court that issued such order of protection authorizing such lessee or tenant to terminate such party's lease or rental agreement. Such court shall hear any such application at any time that the order of protection remains in effect, whether or not the action in which it was issued remains open.

(b) The court shall issue such order only if the applicant lessee or tenant establishes to the satisfaction of the court that:

(i) notwithstanding the existence of an order of protection there continues to exist a substantial risk of physical or emotional harm to such person or such person's child from the party covered by the order of protection if the parties remain in the premises and that relocation will substantially reduce such risk;

(ii) the lessee or tenant attempted to secure the voluntary consent of the lessor or owner to terminate the lease or rental agreement and the lessor or owner refused to permit termination; and

(iii) the lessee or tenant is acting in good faith.

(c) The court shall condition the granting of the order on the following terms:

(i) All sums due under the lease or rental agreement through the termination date of such lease or rental agreement are timely paid;

(ii) That upon termination:

(a) the premises are delivered to the lessor or owner free of all tenants and occupants and in accordance with the terms of the lease relating to delivery of the premises at the termination of the lease, provided that the applicant shall not be responsible for ensuring that the person covered by the order of protection is not present; or

(b) if there are also tenants on the lease other than the applicant tenant and the person covered by the order of protection, the court shall not, except upon consent of such additional tenants, terminate the entire co-tenancy, but the court may sever the co-tenancy, in which case the applicant tenant shall vacate by the termination date; and

(iii) That adjustments be made through to termination date for any rent or other payments made in advance or which have accrued by the terms of such lease or rental agreement.

(d) The order shall specify the termination date which shall be no earlier than thirty days and no later than one hundred fifty days after the due date of the next rental payment subsequent to the date such order is served on the lessor or owner.

(e) The order shall be served on the lessor or owner and any co-tenants by the court or in the manner directed by the court.

3. The lessor or owner and any co-tenants shall be afforded an opportunity to be heard by the court and express opposition to the issuance or terms of a termination order. If the court is not

satisfied that there has been adequate notice of the application to the lessor, owner, or any co-tenants, it may briefly adjourn the matter or take other steps to provide for such notice, but shall not direct that the applicant lessee or tenant make personal service of the application, or of a termination order, upon a co-tenant covered by the order of protection.

4. Any agreement by a lessee or tenant of premises occupied for dwelling purposes waiving or modifying his or her rights as set forth in this section shall be void as contrary to public policy.

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**Protection for victims of family offenses**

N.Y. CRIM. PROC. § 530.12

1. When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or bail or an adjournment in contemplation of dismissal.

...

(b) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

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**Protection of victims of crimes, other than family offenses**

N.Y. CRIM. PROC. § 530.13

1. When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:

...

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any

order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

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**Custody and child support; orders of protection**

N.Y. DOM. REL. § 240

...

3. Order of protection.

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f. In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

...

.....

**Order of protection**

N.Y. FAMILY CT ACT § 446

The court may make an order of protection in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by the petitioner or respondent or both. No order of protection may direct any party to observe conditions of behavior unless the party requesting the order of protection has served and filed a petition or counter-claim in accordance with section one hundred fifty-four-b of this act. Such an order may require the petitioner or the respondent:

...

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

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**Order of protection**

N.Y. FAMILY CT ACT § 656

The court may make an order of protection and an order of probation in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specific time by any petitioner or any respondent, and shall specify if an order of probation is in effect. No order of protection may direct any party to observe conditions of behavior unless the party requesting the order of protection has served and filed a petition or counter-claim in accordance with section one hundred fifty-four-b of this act. Such an order may require the petitioner or the respondent:

...

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

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**Order of protection**

N.Y. FAMILY CT ACT § 842

An order of protection under section eight hundred forty-one of this part shall set forth reasonable conditions of behavior to be observed for a period not in excess of two years by the petitioner or respondent or for a period not in excess of five years upon (i) a finding by the court on the record of the existence of aggravating circumstances as defined in paragraph (vii) of subdivision (a) of section eight hundred twenty-seven of this article; or (ii) a finding by the court on the record that the conduct alleged in the petition is in violation of a valid order of protection. Any finding of aggravating circumstances pursuant to this section shall be stated on the record and upon the order of protection. The court may also, upon motion, extend the order of protection for a reasonable period of time upon a showing of good cause or consent of the parties. The fact that abuse has not occurred during the pendency of an order shall not, in itself, constitute sufficient ground for denying or failing to extend the order. The court must articulate a basis for its decision on the record. The duration of any temporary order shall not by itself be a factor in determining the length or issuance of any final order. Any order of protection issued pursuant to this section shall specify if an order of probation is in effect. Any order of protection issued pursuant to this section may require the petitioner or the respondent:

...

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

...

**Order of protection**

N.Y. FAMILY CT ACT § 1056

...

5. The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

...

**Adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; protection of privacy**

N.Y. PUB. SERV. LAW § 91

...

7. Every telephone corporation, as defined in this chapter shall, at its option: (a) allow a customer to use a modified or alternative name for a directory listing or (b) waive the otherwise applicable charges for a non-published telephone listing, where the customer requests protection of its identity in connection with the customer's purchase of telephone service and the customer is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, and for whose benefit any order of protection, other than a temporary order of protection, has been issued by a court of competent jurisdiction. This waiver of charges shall be for the duration of the applicable, non-temporary, order. Any non-published listings provided in this subdivision shall conform to all the same requirements of other non-published listings. A customer requesting such an accommodation shall provide a copy of the order of protection to the applicable telephone corporation. Any customer requesting an accommodation pursuant to this subdivision may also request and shall be provided, at no cost to the customer, a new telephone number within fifteen days from the request for such accommodation.

**Cable television company providing telephone services**

N.Y. GEN. BUS. LAW § 399-yy

Every cable television company, as defined in section two hundred twelve of the public service law, that provides telephone service to customers in New York shall, at its option: a. allow a customer to use a modified or alternative name for a directory listing or b. waive the otherwise applicable charges for a non-published telephone listing, where the customer requests protection of its identity in connection with the customer's purchase of telephone service and the customer

is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, and for whose benefit any order of protection, other than a temporary order of protection, has been issued by a court of competent jurisdiction. This waiver of charges shall be for the duration of the applicable, non-temporary, order. Any non-published listings provided in this section shall conform to all the same requirements of other non-published listings. A customer requesting such an accommodation shall provide a copy of the order of protection to the applicable cable television company. Any customer requesting an accommodation pursuant to this section may also request and shall be provided, at no cost to the customer, a new telephone number within fifteen days from the request for such accommodation.

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**Address Confidentiality Program**

N.Y. EXEC. LAW § 108

There is created in the office of the secretary of state a program to be known as the “address confidentiality program” to protect victims of domestic violence by authorizing the use of designated addresses for such victims and their minor children. The program shall be administered by the secretary of state.

1. Definitions. For the purposes of this section the following words shall, unless the context requires otherwise, have the following meanings:

- (a) “Victim of domestic violence” shall have the same meaning as is ascribed to such term by section four hundred fifty-nine-a of the social services law.
- (b) “Actual address” means the residential street address, school address or work address of an individual, as specified on his or her application to be a program participant under this section.
- (c) “Program participant” means a person certified as a program participant under this section.
- (d) “Mail” means first class letters delivered via the United States Postal Service, including priority, express and certified mail, and excluding packages, parcels, periodicals and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a government agency.
- (e) “Substitute address” means the secretary's designated address for the address confidentiality program.
- (f) “Secretary” means the secretary of state.
- (g) “Public record” means any information kept, held, filed, produced or reproduced by, with or for an agency, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

(h) "Process" means judicial process and all orders, demands, notices or other papers required or permitted by law to be served on a program participant.

2. Address confidentiality program; application; certification.

(a) An adult person, a parent or legal guardian acting on behalf of a minor, or a legal guardian acting on behalf of an incapacitated person, may apply to the secretary to have an address designated by the secretary to serve as the person's address or address of the minor or incapacitated person in lieu of the person's actual address. The secretary shall approve an application if it is filed in the manner and on the form prescribed by the secretary, and if it includes:

(i) a signed written statement affirmed by the applicant that:

(A) the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence;

(B) the applicant, or the minor or incapacitated person on whose behalf the application is made, has left his or her residence because of such violence;

(C) the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; and

(D) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person's behalf;

(ii) a designation of the secretary as agent for purposes of service of process and for the purpose of receipt of mail;

(iii) the mailing address where the applicant can be contacted by the secretary and the telephone number or numbers where the applicant can be called by the secretary;

(iv) the actual address or addresses that the applicant requests not be disclosed because of the increased risk of domestic violence; and

(v) the name of any person who resides with the applicant who also needs to be a program participant in order to ensure the safety of the applicant and, if the person named in the application is eighteen years of age or older, the consent of such person to be a program participant and designation by such person of the secretary as agent for purposes of service of process and for the purpose of receipt of mail; and

(vi) the signature of the applicant and the name and signature of any individual or representative of any office designated by the secretary under subdivision three of this section who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) The secretary shall establish, distribute and make available a form for the purpose of making applications pursuant to this section.

(c) Applications shall be filed with the office of the secretary.

(d) Upon receipt of a properly completed application, the secretary shall certify the applicant as a program participant and shall serve as the participant's agent for service of process and receipt of mail for the duration of the term of certification.

(e) Participants shall be certified for four years following the date of filing, unless the certification is withdrawn or cancelled before that date. The secretary shall promulgate rules and regulations for renewal of applications pursuant to this section.

3. Designation of agencies to assist applicants. The secretary shall designate state, local or nonprofit agencies that provide counseling, referral, shelter or other specialized services to victims of domestic violence to assist persons applying to be program participants. Such persons providing assistance shall be trained by the secretary. Any assistance and counseling rendered by an officer of the secretary or his or her designees to applicants shall in no way be construed as legal advice.

4. Use and acceptance of substitute address; mail forwarding.

(a) A program participant may request that state and local agencies use the substitute address. When creating, modifying or maintaining a public record, state and local agencies shall accept the substitute address upon demonstration by a program participant of his or her certification in the program, unless the secretary waives this requirement after determining that:

(i) the agency has a bona fide statutory or administrative requirement for the use of the participant's actual address which would otherwise be confidential under this section; and

(ii) the agency has explained how its acceptance of the substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(b) Any agency receiving a waiver shall maintain the confidentiality of the program participant's address by redacting the actual address when the record is released to any person and shall not make the program participant's actual address available for inspection or copying, except under the following circumstances:

(i) there is a bona fide statutory or administrative requirement for the communication of an actual address to another agency that has received a waiver from the secretary, provided that each waiver specifically authorizes such communication with the specified agency; or

(ii) if directed by a court order to a person identified in the order.

(c) Upon receipt by the secretary of a process or mail for a participant, the office of the secretary shall immediately forward all such process or mail to the appropriate program participants at the address specified by the participant for that purpose, and shall record the date of such forwarding. Service of process on a program participant, a program participant's minor child, incapacitated person or other adult member of the program participant's household shall be complete when the secretary receives such process by mail or otherwise.

(d) A program participant may use the substitute address as his or her work address.

(e) The secretary or any member of the department of state who reasonably and in good faith handles any process or mail on behalf of a participant in accordance with this section shall be immune from any civil liability which might otherwise result by reason of such actions.

#### 5. Cancellation of certification.

(a) The secretary may cancel a program participant's certification if, after the passage of fourteen days:

(i) from the date of changing his or her name, the program participant does not notify the secretary that he or she has obtained a name change; however, the program participant may reapply under his or her new name;

(ii) from the date of changing his or her actual address, the program participant fails to notify the secretary of the change of such address; or

(iii) from the date the secretary first receives mail, forwarded to the program participant's address, returned as nondeliverable.

(b) The secretary shall cancel certification of a program participant who applies using false information.

(c) The secretary shall cancel certification of a program participant if the participant's certification term has expired and certification renewal has not been completed.

(d) The secretary shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. The program participant shall have thirty days to appeal the cancellation decision under procedures developed by the secretary.

(e) Program participants may withdraw from the program by giving the secretary written notice of their withdrawal and his or her current identification card. The secretary shall establish, by rule, a secure procedure for ensuring that the request for withdrawal is legitimate.

(f) Any records or documents pertaining to a program participant shall not be a public record and shall be retained and held confidential for a period of three years after termination of certification and then destroyed.

6. Disclosure of participant information prohibited; exceptions.

(a) The secretary shall not make a program participant's information, other than the substitute address, available for inspection or copying, except under any of the following circumstances:

(i) if requested by a law enforcement agency for a legitimate law enforcement purpose as determined by the law enforcement agency; or

(ii) to a person identified in a court order, upon the secretary's receipt of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefor.

(b) The secretary may verify the participation of a specific program participant, in which case the secretary may only confirm information supplied by the requester.

7. Rules and regulations. The secretary shall promulgate rules and regulations necessary to implement the provisions of this section.

8. Report to the legislature. The secretary shall submit to the legislature, no later than February first of each year, a report that includes for each county, the total number of applications received, the total number of persons participating in the program established by this section during the previous calendar year and the total number of pieces of mail forwarded to program participants during the previous calendar year.

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**Confidentiality of registration records in certain cases**

N.Y. ELEC. LAW § 5-508

1. For purposes of this section:

(a) "Victim of domestic violence" means any person who is a victim of a violent felony, as defined in section 70.02 of the penal law, or disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, aggravated harassment in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, assault in the third degree or an attempted assault; and

(i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and

(ii) such act or acts are or are alleged to have been committed by a family or household member.

(b) “Family or household members” mean the following individuals:

- (i) persons related by consanguinity or affinity;
- (ii) persons legally married to one another;
- (iii) persons formerly married to one another regardless of whether they still reside in the same household;
- (iv) persons who have a child in common regardless of whether such persons are married or have lived together at any time;
- (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an “intimate relationship” include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”.

2. Upon application made to the supreme court, in the county wherein a victim of domestic violence is registered pursuant to this article, the court may issue an order requiring that any registration record kept or maintained in accordance with this article with respect to such an individual be kept separate and apart from other registration records and not be made available for inspection or copying by the public or any other person, except election officials acting within the course and scope of their official duties and only as pertinent and necessary in connection therewith.

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**Service animals to domestic violence survivors**

N.Y. SOC. SERV. § 459-B.

... If the victim of domestic violence has a service animal as such term is defined in section one hundred twenty-three-b of the agriculture and markets law, or therapy dog as such term is defined in section one hundred eight of the agriculture and markets law, respectively, such service animal or therapy dog shall be allowed to accompany the victim at the residential program authorized pursuant to this section, so long as such accompaniment would not create an undue burden as defined by section two hundred ninety-six of the executive law.

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**Prohibitions on housing discrimination based on domestic violence**

N.Y. REAL PROP. ACT § 227-D

An act to amend the real property law and the real property actions and proceedings law, in relation to prohibiting discrimination in housing based upon domestic violence status.

...

2. Discrimination based on domestic violence victim status prohibited.

(a) No person, firm or corporation owning or managing any building used for dwelling purposes, or the agent of such person, firm or corporation, shall, because of such person's or family member's domestic violence victim status, (1) refuse to rent a residential unit to any person or family, when, but for such status, rental would not have been refused, (2) discriminate in the terms, conditions, or privileges of any such rental, when, but for such status, such discrimination would not have occurred, or (3) print or circulate, or cause to be printed or circulated, any statement, advertisement or publication which expresses, directly or indirectly, any limitation, specification, or discrimination.

...

(c) Nothing in this section shall be construed as limiting the ability of a person, firm or corporation owning or managing a building used for dwelling purposes, or the agent of such person, firm or corporation, from applying reasonable standards not based on or derived from domestic violence victim status in determining the eligibility of a person or family seeking to rent a residential unit.

(d) This section shall not apply to building used for dwelling purposes that are owner occupied and have two or fewer residential units.

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**Prohibits evictions based on domestic violence victim**

N.Y. REAL PROP. ACT § 744

1. A tenant shall not be removed from possession of a residential unit pursuant to this article because of such person's domestic violence victim status, as defined in section two hundred twenty-seven-d of the real property law. It shall be a defense to a proceeding to recover possession of a residential unit that a landlord seeks such recovery because of a person's domestic violence victim status, and that, but for such status, the landlord would not seek to recover possession. A landlord may rebut such defense by showing that he or she seeks to recover possession of a residential unit because of any other lawful ground.

2. Nothing in this section shall restrict a landlord's legal rights to recover possession of a residential unit on grounds not based on or derived from domestic violence victim status.

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4. This section shall not apply to building used for dwelling purposes that are owner occupied and have two or fewer residential units.

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# MONROE COUNTY, NEW YORK

Monroe County, New York has enacted the following laws regarding survivors' housing rights:

- Non-discrimination against survivors. MONROE COUNTY CODE §§ 260-1 & 260-2.

.....  
Definitions.

## MONROE COUNTY CODE § 260-1

As used in this article, the following terms shall have the meanings indicated:

### **DOCUMENTATION CERTIFYING STATUS AS A VICTIM OF DOMESTIC OR DATING VIOLENCE**

- A. A police report or domestic incident report indicating that the person was a victim of domestic or dating violence.
- B. A valid court order of protection or other court order from a court of competent jurisdiction protecting the person from the perpetrator.
- C. Documentation from an attorney, district attorney, victim advocate, medical professional domestic violence advocate, health care provider, a member of the clergy or counselor that the person was undergoing treatment for, or seeking assistance to address physical or mental injuries or abuse resulting from, domestic or dating violence.

### **VICTIM OF DOMESTIC OR DATING VIOLENCE**

Any person who has been subjected to an act or series of acts that: (a) constitutes a misdemeanor, felony or other violation of law against the person as defined in state or federal law; (b) would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.

A. Such act or series of acts as defined in above must have been committed by a current or former spouse or domestic partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

B. Such act or series of acts as defined in above must also:

- (1) Result in the actual physical or emotional injury of the person, whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or
- (2) Create a substantial risk of physical or emotional harm to such person, whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.

.....  
**Unlawful discriminatory acts in sale, lease or rental of real property.**

MONROE COUNTY CODE § 260-2

It shall be an unlawful discriminatory act for the owner, lessor, lessee, sublessee, assignee, or managing agent or other person having the right to sell, rent, or lease, or to approve the sale, rental, or lease of, housing accommodations, including publicly assisted housing accommodations, constructed or to be constructed, or any interest therein, or any agent or employee thereof:

A. To refuse to sell, rent, lease, or to refuse the approval of the sale, rental or lease of such a housing accommodation because of a person's or group of persons' actual or perceived group identity or because of such person's status as a victim of domestic or dating violence.

B. To refuse to continue to rent or lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of a person's or group of persons' actual or perceived group identity or because of such person's status as a victim of domestic or dating violence.

C. To alter the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith because of a person's or group of persons' actual or perceived group identity or because of such person's status as a victim of domestic or dating violence.

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# NEW YORK CITY, NEW YORK

New York City, New York has enacted the following laws regarding survivors' housing rights:

- Prohibiting discrimination in housing on the basis of an individual's status as a victim of domestic violence. N.Y.C. ADMIN. CODE § 8-107.1.
- Landlords cannot evict survivors of domestic violence for non-occupancy of the unit if the survivor asserts intent to return. N.Y.C. ADMIN. CODE §§ 26-402, 26-403, 26-503, 26-504.

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## **Prohibiting discrimination in housing on the basis of an individual's status as a victim of domestic violence**

N.Y.C. ADMIN. CODE § 8-107.1

§ 8-107.1. Victims of Domestic Violence, Sex offenses or Stalking.

a. Definitions. Whenever used in this chapter the following terms have the following meanings:

“Acts or threats of violence” includes, but is not limited to, acts, which would constitute violations of the penal law.

“Victim of domestic violence” means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

“Victim of sex offenses or stalking” means a victim of acts which would constitute violations of article 130 of the penal law, or a victim of acts which would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

Practices “based on,” “because of,” “on account of,” “as to,” “on the basis of,” or “motivated by” an individual's “status as a victim of domestic violence,” or “status as a victim of sex offenses or stalking” include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.

b. Unlawful discriminatory practices.

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2. (a) It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agent or employee thereof, because of any

individual's actual or perceived status as a victim of domestic violence, or as a victim of sex offenses or stalking:

(1) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation or an interest therein, or to discriminate in the terms, conditions, or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith because of an actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking; or

(2) To represent that such housing accommodation or an interest therein is not available when in fact it is available.

(b) The provisions of this paragraph 2 shall not apply:

(1) To the rental of a housing accommodation, other than a publicly-assisted housing accommodation, in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or

(2) To the rental of a room or rooms in a housing accommodation, other than a publicly-assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

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**Landlord cannot evict survivor who leaves unit and expresses intent to return**

N.Y.C. ADMIN. CODE §§ 26-402 & 26-403

§ 26-402 Short title. This chapter shall be known and may be cited as the city rent and rehabilitation law.

§ 26-403 Definitions. When used in this chapter, unless a different meaning clearly appears from the context, the following terms shall mean and include:

e. "Housing accommodation."

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2. The term "housing accommodation" shall not include:

(i) Except as otherwise provided in subparagraphs (b) and (c) of paragraph one of this subdivision e:

...

(10) Housing accommodations not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction. For the purposes of determining primary residency, a tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence. No action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds.

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N.Y.C. ADMIN. CODE §§ 26-503 & 26-504

§ 26-503. Short title.

This law may be cited as the rent stabilization law of nineteen hundred sixty-nine.

§ 26-504. Application.

This law shall apply to:

a. Class A multiple dwellings not owned as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law, containing six or more dwelling units which:

(1) were completed after February first, nineteen hundred forty-seven, except dwelling units ... (f) not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction, provided, however that no action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds. For the purposes of determining primary residency, a tenant who is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, who has left the unit because of such violence, and who asserts an intent to return to the housing accommodation shall be deemed to be occupying the unit as his or her primary residence. For the purposes of this subparagraph where a housing accommodation is rented to a not-for-profit hospital for residential use, affiliated subtenants authorized to use such accommodations by such hospital shall be deemed to be tenants.

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# SUFFOLK COUNTY, NEW YORK

Suffolk County, New York has enacted the following laws regarding survivors' housing rights:

- Prohibition on discrimination against victims of domestic violence in the sale, lease or rental of accommodations or commercial property. SUFFOLK COUNTY CODE §§ 528.-6, 528-9.

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## **Unlawful discriminatory practices in the sale, lease or rental of housing accommodations or commercial property.**

### SUFFOLK COUNTY CODE § 528-9

A. It shall be an unlawful discriminatory practice:

1. To refuse to sell, rent, lease or otherwise deny to or withhold from any individual or group of individuals any housing accommodation, constructed or to be constructed, land or commercial space, or an interest therein, or refuse to negotiate for the sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, to an individual or group of individuals, because of the group identity, veteran status, status as a victim of domestic violence or lawful source of income of such individual or individuals or to represent that any housing accommodation, land or commercial space, or an interest therein, is not available for inspection, sale, rental or lease when, in fact, it is so available, or to otherwise deny to or withhold any housing accommodation, land or commercial space, or an interest therein, or any facilities of any housing accommodation or commercial space from any individual or individuals because of the group identity, veteran status, status as a victim of domestic violence or lawful source of income of such individual or individuals;
2. To discriminate against any individual or group of individuals because of the group identity, veteran status, status as a victim of domestic violence or lawful source of income of such individual or individuals in the terms, conditions or privileges of the sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, or in the furnishing of facilities or services in connection therewith;
3. To discriminate against any individual or group of individuals in making available a residential real estate transaction, or in the terms and conditions of such a transaction, because of the group identity, veteran status, status as a victim of domestic violence or lawful source of income of such individual or individuals;
- ...
7. To make, print, or publish, or cause to be made, printed, or published any statement, advertisement, or publications, or to use any form of application for the purchase, rental

## SUFFOLK COUNTY, NEW YORK

or lease of any housing accommodation, land or commercial space, or an interest therein, or to make any record or inquiry in connection with the prospective purchase, rental or lease of such housing accommodation, land or commercial space, or an interest therein, which expresses, directly or indirectly, any limitation, specification, or discrimination with respect to group identity, veteran status, status as a victim of domestic violence or because of the lawful source of income of such individual or individuals, or any intent to make any such limitation, specification or discrimination;

8. To induce or attempt to induce, for profit or otherwise, any person to sell, rent or lease any housing accommodation, land, or commercial space, or an interest therein, by representations, explicit or implicit, regarding the entry or prospective entry into the neighborhood of an individual or group of individuals because of his, her or their group identity, veteran status, status as a victim of domestic violence or lawful source of income;

9. To threaten, intimidate, or interfere with individuals in their enjoyment of a housing accommodation, land or commercial space because of their group identity, veteran status, status as a victim of domestic violence or lawful source of income, or the group identity, veteran status or status as a victim of domestic violence of their guests, invitees, visitors or associates.

B. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson, or an employee or agent of a real estate broker or real estate salesperson:

1. To refuse to sell, rent or lease any housing accommodation, land or commercial space, or an interest therein, to any individual or group of individuals or to refuse to negotiate for the sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, to any individual or group of individuals because of the group identity, veteran status, status as a victim of domestic violence or because of the lawful source of income of such individual or group of individuals, or to represent that any housing accommodation, land or commercial space, or an interest therein, is not available for inspection, sale, rental or lease when, in fact, it is so available, or otherwise deny or withhold any housing accommodation, land or commercial space, or interest therein, or any facilities of any such housing accommodation or commercial space from any individual or group of individuals because of the group identity, veteran status, status as a victim of domestic violence or because of the lawful source of income of such individual or individuals.

2. To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, sale, rental or lease of any housing accommodation, land, or commercial space, or an interest therein, or to make any record or inquiry in connection with the prospective purchase, sale, rental or lease of any housing accommodation, land or commercial space, or an interest therein, which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity, veteran status, status as a victim of domestic violence or as to lawful

source of income, or any intent to make any such limitation, specification or discrimination.

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**Definitions**

SUFFOLK COUNTY CODE § 528.-6

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**Victim of Domestic Violence** – an individual who is a victim of an act which would constitute a family offense pursuant to subdivision 1 of § 813 of the Family Court Act.

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# WESTCHESTER COUNTY, NEW YORK

Westchester County, New York has enacted the following laws regarding survivors' housing rights:

- Unlawful to discriminate against any person because of a person's status as a victim of domestic violence, sexual abuse or stalking, in the terms, conditions or privileges of the sale or rental of property. WESTCHESTER COUNTY CODE §§ 700.02, 700.05, & 700.21.
- Group identity is defined to include a person's status as a victim of domestic violence, sexual abuse, or stalking; landlord must keep domestic violence certification confidential. WESTCHESTER COUNTY CODE § 700.21.
- Unlawful to discriminate against any person based upon their status as a victim of domestic violence, sexual abuse or stalking in the approval, terms or appraisal process relating to credit applications for the purchase, acquisition, construction, rehabilitation, repair, maintenance or refinancing of any housing accommodation or in connection with applications for the making or purchasing of loans which are to be secured by a residential real estate interest. WESTCHESTER COUNTY CODE § 700.22.
- Unlawful to deny access to brokerage services or to discriminate in the terms of brokerage services based upon an individual's status as a victim of domestic violence, sexual assault or stalking. WESTCHESTER COUNTY CODE § 700.22-a.
- There is a complaint procedure before the Westchester County Human Rights Commission for allegations housing discrimination. WESTCHESTER COUNTY CODE § 700.11.

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## Definitions

### WESTCHESTER COUNTY CODE § 700.02

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22. Victim of domestic violence, sexual abuse or stalking.

1. A victim of domestic violence shall mean:

(a) any person who has been subjected to an act or series of acts that:

(1) would constitute a misdemeanor, felony or other violation of law against the person as defined in state or federal law; or

(2) would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.

WESTCHESTER COUNTY, NEW YORK

(b) Such act or series of acts as defined in subdivision (a) must have been committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

(c) Such act or series of acts as defined in subdivision (a) and (b) must also

(1) result in the actual physical or emotional injury of the person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or

(2) create a substantial risk of physical or emotional harm to such person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.

2. A victim of sexual abuse or stalking shall mean any person who has been:

(a) a victim of an act or series of acts which would constitute a violation of article 130 of the penal law; or

(b) a victim of an act of series of acts which would constitution a violation of section 120.45, 120.50, 120.55, or 120.60 of the penal law.

3. A victim of domestic violence, sexual abuse or stalking shall also include any individual that is perceived to be a person who has been, or is currently being, subjected to acts or series of acts as set forth in subdivision 1 and 2 above.

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**Unlawful discriminatory practices in the sale, lease or rental of land or commercial property**

WESTCHESTER COUNTY CODE § 700.05

a. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sub-lessee, or managing agent of, or other person having the right of ownership or possession of, or the right to sell, rent or lease, or the right to approve the sale, rental or lease of, land or commercial property or an interest therein:

1. To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial property because of the actual or perceived group identity of such person or persons or because of such person’s status as a victim of domestic violence, sexual abuse or stalking;

2. To discriminate against any person because of his or her actual or perceived group identity or because of such person’s status as a victim of domestic violence, sexual abuse or stalking, in the terms, conditions or privileges of the sale, rental or lease of any such

## WESTCHESTER COUNTY, NEW YORK

land or commercial property or in the furnishing of facilities or services in connection therewith; or

3. To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial property or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial property which expresses, directly or indirectly, any limitation, specification or discrimination as to group identity or because of a person's status as a victim of domestic violence, sexual abuse or stalking, or any intent to make any such limitation, specification or discrimination.

...

c. It shall be an unlawful discriminatory practice for a real estate salesperson, real estate broker, real estate listing service, or any employee or agent thereof:

1. To refuse to sell, rent or lease any land or commercial property to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any land or commercial property or any interest therein to any person or group of persons because of the actual or perceived group identity of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking, or to represent that any land or commercial property or any interest therein is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any land or commercial property or any facilities of any land or commercial property or any interest therein from any person or group of persons because of the actual or perceived group identity of such person or persons or because of such person's status as a victim of domestic violence, sexual abuse or stalking; or

2. To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any land or commercial property or to make any record or inquiry in connection with the prospective purchase, rental or lease of any land or commercial property which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity or because of such person's status as a victim of domestic violence, sexual abuse or stalking; or any intent to make any such limitation, specification or discrimination.

...

e. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation (including a limited liability corporation), partnership (including a limited partnership or a limited liability partnership) or any other organization used for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to group identity or a person's status as a victim of domestic violence, sexual abuse or stalking of

the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

f. It shall be an unlawful discriminatory practice for any real estate board, or any board of directors of any condominium corporation or cooperative apartment corporation, because of the actual or perceived group identity of any individual or because of such person's status as a victim of domestic violence, sexual abuse or stalking, who is otherwise qualified for membership, to exclude or expel such individual from ownership of any unit or apartment or from membership on any such board, or to discriminate against such individual in the terms, conditions and privileges of ownership of any unit or apartment or of membership on any such board.

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**Complaints of discrimination; procedure**

WESTCHESTER COUNTY CODE § 700.11

a. Except as otherwise provided in this chapter, any person claiming to be aggrieved by an unlawful discriminatory practice may, personally or by an attorney at law, make, sign and file with the commission a verified complaint in writing which shall set forth the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, the particulars thereof, and such other information as may be required by the commission. The commission shall not accept any complaint for filing unless it is accompanied by a waiver and relinquishment, duly subscribed by the complainant and duly acknowledged in the manner required to entitle a deed to be recorded, of any and all rights to file a complaint with the New York State Division of Human Rights, any federal civil rights agencies, such as the Department of Housing and Urban Development ("HUD") or the Equal Employment Opportunity Commission ("EEOC"), or with the commission on human rights of any city, town or village located in Westchester County, which is based upon the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint sought to be filed with the commission. The complainant may utilize the services of the County Clerk's Office in order to have his or her signature notarized on any documents required in connection with the filing of a complaint for the purposes of this section. The commission shall promulgate and make available appropriate forms of complaints and waivers.

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h. In the event that the commission shall, after a hearing, determine that a respondent has committed an unlawful discriminatory practice, it shall issue an order containing such of the following provisions as may, in the judgment of the commission, effectuate the purposes of this chapter:

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2. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory practice, including such of the following as may be applicable and appropriate; ... the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, evaluating applicants for membership in a place of accommodation without discrimination based on group identity or because of a person's status as a victim of domestic violence, sexual abuse or stalking, and without retaliation or discrimination based on opposition to practices forbidden by this chapter or filing a complaint, testifying or assisting in any proceeding under this chapter;

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**Definitions**

WESTCHESTER COUNTY CODE § 700.20

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H. Group identity shall mean the race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status or disability of a person or persons, a person's source of income, or a person's status as a victim of domestic violence, sexual abuse, or stalking.

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**Discrimination in real estate practices prohibited**

WESTCHESTER COUNTY CODE § 700.21

A. It shall be an unlawful discriminatory real estate practice for anyone, including, but not limited to, an owner, lessor, lessee, sub-lessee, assignee, real estate broker, real estate salesperson or managing agent or other person, including but not limited to those having the right to enter into a transaction or negotiate for or otherwise make available to any person or group of persons such housing accommodations or to approve the transaction of housing accommodations, including publicly assisted housing accommodations, constructed or to be constructed, or any interest therein, or any agent or employee thereof:

- 1. To represent that housing accommodations are not available for inspection, sale or rental when in fact they are available, because of the group identity of such person or persons.
- 2. To refuse to sell, rent, lease, sublease, assign, transfer, negotiate for, or to refuse to approve or enter into a transaction involving or otherwise to deny to or withhold from any person or group of persons, or to refuse to continue to rent, lease, sublease or

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otherwise to deny to or withhold from any person or group of persons, such a housing accommodation because of that persons actual or perceived group identity.

3. To discriminate against any person because of that person's actual or perceived group identity, in the terms, conditions or privileges of a transaction involving any such housing accommodations.

4. To discriminate against any person because of that person's actual or perceived group identity in the furnishings of facilities or services associated with such housing accommodations or the use or enjoyment in connection therewith.

5. To make, declare, print, publish, or circulate, or cause to be made, declared, printed, published, or circulated any notice, statement, advertisement or, with respect to the transaction of any such housing accommodations which expresses or indicates, directly or indirectly, any preference, limitation, specification, or discrimination as to a person's or group of persons' actual or perceived group identity, or any intent to make any such preference, limitation, specification, or discrimination.

6. To use any form of application for the transaction of any such housing accommodation or an interest therein or to make any record of inquiry in connection with the prospective transaction of such a housing accommodation or an interest therein which expresses or indicates, directly or indirectly, any preference, limitation, specification, or discrimination as to a person's or group of persons' actual or perceived group identity, or any intent to make any such preference, limitation, specification, or discrimination.

7. For profit, to induce any person to sell, rent, lease, sublease, assign, transfer, or otherwise negotiate or enter into a transaction involving any housing accommodation by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular group identity.

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B. A victim of domestic violence, sexual abuse or stalking, pursuant to subdivisions 1, 2, 3, 4, 5, 6, and 7 of paragraph A. above, shall provide the owner, lessor, lessee, sub-lessee, assignee, or managing agent or such other person with documentation certifying he or she is a victim of domestic violence, sexual abuse or stalking. Certification establishing such status shall be sufficient in the form of any of the following:

1. A police report indicating that the person was a victim of domestic violence, sexual abuse or stalking;

2. A court order protecting the person from the perpetrator of an act of domestic violence, sexual abuse or stalking or other evidence from the court or prosecuting attorney that the person has appeared in court; or

3. Documentation from a medical professional, domestic violence advocate, health care provider, a member of the clergy or counselor that the person was undergoing treatment for, or seeking assistance to address, physical or mental injuries or abuse resulting from domestic violence, sexual

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abuse or stalking.

This certification is only required to assist victims, where appropriate, who choose to invoke the protections and benefits of this article as well as to assist landlords in their assessment of the situation. The owner, lessor, lessee, sub-lessee, assignee, or managing agent or such other person shall retain all such information received from a victim of domestic violence, sexual abuse or stalking in the strictest confidence, except to the extent that such disclosure is required pursuant to applicable federal, state or local law.

### C. Exemptions.

1. The provisions of paragraph (A) (1)-(4) and (7)-(9) shall not apply:

a. To any single-family house sold or rented by an owner provided:

(i) That such private individual owner does not own more than three such single-family houses at any one time; and

(ii) That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period; and

(iii) That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on their behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; and

(iv) That such single-family house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing accommodations, as defined in section 700.20(P) of this article, or of any employee or agent of any such broker, agent, salesperson, or person, and

(b) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of § 700.21(A)(5) and (6) of this article, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title;

b. To the transaction of, or the negotiation of a transaction of a housing accommodation, other than a publicly assisted housing accommodation, in a building that contains housing accommodations for not more than four families living independently of each other, if the owner actually resides in one of such housing accommodations;

c. If the victim of domestic violence, sexual abuse or stalking has failed to provide the owner, lessor, lessee, sub-lessee, assignee, or managing agent or other person having the right to conduct or approve transactions of said housing accommodations, including publicly assisted housing accommodations, with documentation certifying that he or she is a victim of domestic violence, sexual abuse or stalking, except that it shall apply if such person perceives an individual to be a victim of domestic violence, sexual abuse or stalking.

d. To an owner, lessor, lessee, sub-lessee, assignee, or managing agent or other person having the right to conduct or approve transactions of said housing accommodations where no adverse action has been taken against the victim of domestic violence, sexual abuse or stalking.

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**Unlawful discriminatory real estate practices in relation to credit**

WESTCHESTER COUNTY CODE § 700.22

A. It shall be an unlawful discriminatory real estate practice for any creditor or any other officer, agent or employee thereof:

1. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair, maintenance or refinancing of any housing accommodation, land or any interest therein or in the case of applications for the making or purchasing of loans or providing other financial assistance which are to be secured by residential real estate, to discriminate against any such applicant because of the actual or perceived group identity of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, or land, in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit; or in the appraisal of any housing accommodation conducted in connection with any such application.
2. To discriminate in the appraisal of housing accommodations, conducted in connection with an application for credit, on the basis of group identity.
3. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of group identity.
4. To use any form of application for business or personal credit or use or make any record or inquiry, which expresses, directly or indirectly, any limitation, specification, or discrimination as to group identity.
5. To make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of birth control or family planning.

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6. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of applicant's actual or perceived group identity;

7. To discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse, except that this provision shall not be applicable to any situation where the use of a surname would constitute or result in a criminal act.

B. Without limiting the generality of paragraph A, it shall be considered discriminatory if, because of an applicant's or class of applicant's perceived or actual group identity:

1. An applicant or class of applicants is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit; or

2. Special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.

C. Notwithstanding any provision of this section to the contrary, it shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to group identity, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

D. Notwithstanding any provision of this section to the contrary, it shall not be an unlawful discriminatory real estate practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of creditworthiness.

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**Discrimination in the provision of brokerage services**

WESTCHESTER COUNTY CODE § 700.22-a

A. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting housing accommodations, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of that person's actual or perceived group identity.

B. Prohibited actions under this section include, but are not limited to:

1. Setting different fees for access to or membership in a multiple listing service because of a person's actual or perceived group identity.

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2. Denying or limiting benefits accruing to members in a real estate brokers' organization because of a person's actual or perceived group identity.
3. Imposing different standards or criteria for membership in a real estate sales or rental organization because of a person's actual or perceived group identity.
4. Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing accommodations, because of a person's actual or perceived group identity.

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# NORTH CAROLINA

North Carolina has enacted the following laws regarding survivors' housing rights:

- Address confidentiality program. N.C. GEN. STAT. ANN. § 15C-1, *et seq.*
- Laws prohibiting landlords from discriminating against a tenant or applicant “based substantially” on the tenant or applicant’s status as a victim of domestic violence, sexual assault, or stalking. N.C. GEN. STAT. ANN. § 42-42.2.
- Lock changes. N.C. GEN. STAT. ANN. § 42-42.3.
- Early lease termination. N.C. GEN. STAT. ANN. § 42-45.1.
- Orders excluding the restrained party from the household. N.C. GEN. STAT. ANN. § 50B-3.
- Orders requiring the restrained party to pay for alternate housing. N.C. GEN. STAT. ANN. § 50B-3.
- Orders evicting the restrained party from the residence and providing assistance to the victim in returning to it. N.C. GEN. STAT. ANN. § 50B-3.

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## Purpose

### N.C. GEN. STAT. ANN. § 15C-1

The purpose of this Chapter is to enable the State and the agencies of North Carolina to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual offense, stalking, or human trafficking; to enable interagency cooperation in providing address confidentiality for victims of domestic violence, sexual offense, stalking, or human trafficking; and to enable the State and its agencies to accept a program participant's use of an address designated by the Office of the Attorney General as a substitute address.

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## Definitions

### N.C. GEN. STAT. ANN. § 15C-2

The following definitions apply in this Chapter:

- (1) Actual address or address. - A residential, work, or school street address as specified on the individual's application to be a program participant under this Chapter.

(2) Address Confidentiality Program or Program. - A program in the Office of the Attorney General to protect the confidentiality of the address of a relocated victim of domestic violence, sexual offense, or stalking to prevent the victim's assailants or potential assailants from finding the victim through public records.

(3) Agency of North Carolina or agency. - Includes every elected or appointed State or local public office, public officer, or official; institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any local government; or unit, special district, or other political subdivision of State or local government.

(4) Application assistant.--An employee of an agency or nonprofit organization who provides counseling, referral, shelter, or other specialized services to victims of domestic violence, sexual offense, stalking, or human trafficking and who has been designated by the Attorney General to assist individuals with applications to participate in the Address Confidentiality Program.

(5) Attorney General. - Office of the Attorney General.

(6) Person. - Any individual, corporation, limited liability company, partnership, trust, estate, or other association or any state, the United States, or any subdivision thereof.

(7) Program participant. - An individual accepted into the Address Confidentiality Program in accordance with this Chapter.

(8) Public record. - A public record as defined in Chapter 132 of the General Statutes.

(9) Substitute address. - An address designated by the Attorney General under the Address Confidentiality Program.

(10) Victim of domestic violence. - An individual against whom domestic violence, as described in G.S. 50B-1, has been committed.

(11) Victim of a sexual offense. - An individual against whom a sexual offense, as described in Article 7A of Chapter 14 of the General Statutes, has been committed.

(12) Victim of stalking.--An individual against whom stalking, as described in former G.S. 14-277.3 for acts occurring before December 1, 2008, or G.S. 14-277.3A for acts occurring on or after December 1, 2008, has been committed.

(13) Victim of human trafficking.--An individual against whom human trafficking, as described in G.S. 14-43.11, has been committed.

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**Address Confidentiality Program**

N.C. GEN. STAT. ANN. § 15C-3

The General Assembly establishes the Address Confidentiality Program in the Office of the Attorney General to protect the confidentiality of the address of a relocated victim of domestic violence, sexual offense, stalking, or human trafficking to prevent the victim's assailants or potential assailants from finding the victim through public records. Under this Program, the Attorney General shall designate a substitute address for a program participant and act as the agent of the program participant for purposes of service of process and receiving and forwarding first-class mail or certified or registered mail. The Attorney General shall not be required to forward any mail other than first-class mail or certified or registered mail to the program participant. The Attorney General shall not be required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered mail.

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**Filing and certification of applications; authorization card**

N.C. GEN. STAT. ANN. § 15C-4

(a) An individual who wants to participate in the Address Confidentiality Program shall file an application with the Attorney General with the assistance of an application assistant. Any of the following individuals may apply to the Attorney General to have an address designated by the Attorney General to serve as the substitute address of the individual:

- (1) An adult individual.
- (2) A parent or guardian acting on behalf of a minor when the minor resides with the individual.
- (3) A guardian acting on behalf of an incapacitated individual.

(b) The application shall be dated, signed, and verified by the applicant and shall be signed by the application assistant who assisted in the preparation of the application.

(c) The application shall contain all of the following:

- (1) A statement by the applicant that the applicant is a victim of domestic violence, sexual offense, stalking, or human trafficking and that the applicant fears for the applicant's safety or the safety of the applicant's child.
- (2) Evidence that the applicant is a victim of domestic violence, sexual offense, stalking, or human trafficking. This evidence may include any of the following:
  - a. Law enforcement, court, or other federal or state agency records or files.

b. Documentation from a domestic violence program if the applicant is alleged to be a victim of domestic violence.

c. Documentation from a religious, medical, or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense, or stalking.

d. Documentation submitted to support a victim of human trafficking’s application for federal assistance or benefits under federal human trafficking laws.

(3) A statement by the applicant that disclosure of the applicant’s address would endanger the applicant’s safety or the safety of the applicant’s child.

(4) A statement by the applicant that the applicant has or will confidentially relocate in North Carolina.

(5) A designation of the Attorney General as an agent for the applicant for purposes of service of process and the receipt of first-class mail or certified or registered mail.

(6) The mailing address and telephone number where the applicant can be contacted by the Attorney General.

(7) The address that the applicant requests not to be disclosed by the Attorney General that directly relates to the increased risk of domestic violence, sexual offense, or stalking.

(8) A statement as to whether there is any existing court order or court action involving the applicant related to divorce proceedings, child support, child custody, or child visitation and the court that issued the order or has jurisdiction over the action.

(9) A statement by the applicant that to the best of the applicant’s knowledge, the information contained in the application is true.

(10) A recommendation of an application assistant that the applicant have an address designated by the Attorney General to serve as the substitute address of the applicant.

(d) Upon the filing of a properly completed application, the Attorney General shall certify the applicant as a program participant. Upon certification, the Attorney General shall issue an Address Confidentiality Program authorization card to the program participant. The Address Confidentiality Program authorization card shall remain valid for so long as the program participant remains certified under the Program.

(e) Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or canceled prior to the end of the four-year period. A program participant may withdraw the certification by filing a request for withdrawal acknowledged before a notary with the Attorney General. A certification may be renewed by filing an application containing the information required by G.S. 15C-3 with the Attorney General at least 30 days prior to expiration of the current certification.

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**Change of name, address, or telephone number**

N.C. GEN. STAT. ANN. § 15C-5

(a) A program participant shall notify the Attorney General within 30 days after the program participant has obtained a legal name change by providing the Attorney General a certified copy of any judgment or order evidencing the change or any other documentation the Attorney General deems to be sufficient evidence of the name change. If the program participant fails to notify the Attorney General of a name change in the manner provided in this subsection, the Attorney General shall cancel the certification of the program participant in the Program.

(b) A program participant shall notify the Attorney General of a change in address or telephone number from the address or telephone number listed for the program participant on the application at least seven days before the change occurs. If the program participant fails to notify the Attorney General of a change in address or telephone number in the manner provided in this subsection, the Attorney General shall cancel the certification of the program participant in the Program.

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**Falsifying application information**

N.C. GEN. STAT. ANN. § 15C-6

An applicant who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's child or who knowingly provides false information when applying for certification or renewal shall lose certification in the Program. The Attorney General shall investigate violations of this section. Upon finding that a violation has occurred, the Attorney General shall assess a civil penalty against the applicant not to exceed five hundred dollars (\$500.00).

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**Certification cancellation; records**

N.C. GEN. STAT. ANN. § 15C-7

(a) The Attorney General shall cancel the certification of a program participant under any of the following circumstances:

- (1) The program participant files a request for withdrawal of the certification pursuant to G.S. 15C-4.
- (2) The program participant fails to notify the Attorney General of a change in the program participant's name, address, or telephone number listed on the application pursuant to G.S. 15C-5.

(3) The program participant submitted false information in applying for certification to the Program in violation of G.S. 15C-6.

(4) Mail forwarded to the program participant by the Attorney General is returned as undeliverable.

(b) The provisions of Article 3 of Chapter 150B of the General Statutes shall not apply to any cancellation of certification by the Attorney General pursuant to subsection (a) of this section.

(c) The Attorney General shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. The program participant shall have 30 days to appeal the cancellation decision under procedures developed by the Attorney General.

(d) Any records or documents pertaining to a program participant shall be maintained in accordance with The General Schedule for State Agencies as established by the Department of Cultural Resources.

(e) An individual who ceases to be a program participant is responsible for notifying persons who use the substitute address designated by the Attorney General as the program participant's address that the designated substitute address is no longer the individual's address.

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**Address use by State or local agencies**

N.C. GEN. STAT. ANN. § 15C-8

(a) The program participant, and not the Attorney General, is responsible for requesting that agencies of North Carolina use the address designated by the Attorney General as the substitute address of the program participant.

(b) Except as otherwise provided in this section, when a program participant submits a current and valid Address Confidentiality Program authorization card to an agency of North Carolina, the agency shall accept the address designation by the Attorney General on the authorization card as the program participant's substitute address when creating a new public record.

(c) An agency may request a waiver from the requirements of the Address Confidentiality Program by submitting a waiver request to the Attorney General. The agency's waiver request shall be in writing and include an explanation of why the agency cannot meet its statutory or administrative obligations by possessing or using the substitute address and an affirmation that, if the Attorney General accepts the waiver, the agency will only use the program participant's actual address for those statutory or administrative purposes.

(d) The Attorney General's acceptance or denial of an agency's waiver request shall be made in writing and include a statement of specific reasons for acceptance or denial. Acceptance or denial of an agency's waiver request is not subject to further review.

(e) A board of elections shall use the actual address of a program participant for all election-related purposes and shall keep the address confidential from the public under the provisions of G.S. 163-82.10(d). Use of the actual address on letters placed in the United States mail by a board of elections shall not be considered a breach of confidentiality. The substitute address designation provided by the Attorney General shall not be used as an address for voter registration or verification purposes.

(f) For purposes of levying and collecting property taxes on motor vehicles pursuant to Article 22A of Chapter 105 of the General Statutes, the Attorney General shall issue to the county, city, or town assessor or tax collector a list containing the names and actual addresses of program participants residing in that county, city, or town. This list shall be used only for the purposes of listing, appraising, or assessing taxes on motor vehicles and collecting property taxes on motor vehicles in the county, city, or town. The county, city, or town assessor or tax collector or any current or former officer, employee, or agent of any county, city, or town, who in the course of service to or employment by the county, city, or town has access to the name and actual address of a program participant, shall not disclose this information to any other person.

(g) The substitute address designated by the Attorney General shall not be used for purposes of listing, appraising, or assessing taxes on property and collecting taxes on property under the provisions of Subchapter II of Chapter 105 of the General Statutes.

(h) The substitute address designated by the Attorney General shall not be used as an address by any register of deeds on recorded documents or for the purpose of indexing land registered under Article 4 of Chapter 43 of the General Statutes in the index of registered instruments pursuant to G.S. 161-22.

(i) A local school administrative unit shall use the actual address of a program participant for any purpose related to admission or assignment pursuant to Article 25 of Chapter 115C of the General Statutes and shall keep the actual address confidential from the public under the provisions of this Article. The substitute address designated by the Attorney General shall not be used as an address for admission or assignment purposes. For purposes of student records created under Chapter 115C of the General Statutes, the substitute address designated by the Attorney General shall be used.

(j) Except as otherwise provided in this section, a program participant's actual address and telephone number maintained by an agency of North Carolina is not a public record within the meaning of Chapter 132 of the General Statutes. A program participant's actual address or telephone number maintained by the Attorney General or disclosed by the Attorney General pursuant to this Chapter is not a public record within the meaning of Chapter 132 of the General Statutes.

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**Disclosure of address prohibited**N.C. GEN. STAT. ANN. § 15C-9

(a) The Attorney General is prohibited from disclosing any address or telephone number of a program participant other than the substitute address designated by the Attorney General, except under the following circumstances:

(1) The information is requested by a federal, state, or local law enforcement agency for official use only.

(2) The information is required by direction of a court order. However, any person to whom a program participant's address or telephone number has been disclosed shall not disclose the address or telephone number to any other person unless permitted to do so by order of the court.

(3) Upon request by an agency to verify the participation of a specific program participant when the verification is for official use only.

(4) Upon request by an agency, in the manner provided for by G.S. 15C-8.

(5) The program participant is required to disclose the program participant's actual address as part of a registration required by Article 27A of Chapter 14 of the General Statutes.

(b) The Attorney General shall provide immediate notification of disclosure to a program participant when disclosure is made pursuant to subdivision (2) or (4) of subsection (a) of this section.

(c) If, at the time of application, an applicant is subject to a court order related to divorce proceedings, child support, child custody, or child visitation, the Attorney General shall notify the court that issued the order of the certification of the program participant in the Address Confidentiality Program and the substitute address designated by the Attorney General. If, at the time of application, an applicant is involved in a court action related to divorce proceedings, child support, child custody, or child visitation, the Attorney General shall notify the court having jurisdiction over the action of the certification of the applicant in the Address Confidentiality Program and the substitute address designated by the Attorney General.

(d) No person shall knowingly and intentionally obtain a program participant's actual address or telephone number from the Attorney General or an agency knowing that the person is not authorized to obtain the address information.

(e) No employee of the Attorney General or an agency shall knowingly and intentionally disclose a program participant's actual address or telephone number to a person known to the employee to be prohibited from receiving the program participant's actual address or telephone number, unless the disclosure is permissible by law. This subsection only applies when an employee obtains a program participant's actual address or telephone number during the course of the

employee's official duties and, at the time of disclosure, the employee has specific knowledge that the actual address or telephone number disclosed belongs to a program participant.

(f) Any person who knowingly and intentionally obtains or discloses information in violation of this Chapter shall be guilty of a Class 1 misdemeanor and assessed a fine not to exceed two thousand five hundred dollars (\$2,500).

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**Assistance for program applicants**

N.C. GEN. STAT. ANN. § 15C-10

(a) The Attorney General shall designate agencies of North Carolina and nonprofit organizations that provide counseling and shelter services to victims of domestic violence, sexual offense, stalking, or human trafficking to assist individuals applying to be program participants. Any assistance and counseling rendered by the Office of the Attorney General or its designee to applicants shall in no way be construed as legal advice.

(b) The Attorney General, upon receiving notification pursuant to G.S. 15A-832(h), shall, within 96 hours of receiving the notification, issue the victim a letter of certification of eligibility or other relevant document entitling the person to have access to State benefits and services.

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**Limited liability**

N.C. GEN. STAT. ANN. § 15C-11

The State, agencies of North Carolina, and their officers, officials, employees, and agents, both past and present, in their official and individual capacities, shall be immune and held harmless from any liability in any action brought by or on behalf of any person injured or harmed by the actions or inactions of these entities and individuals in implementing this Chapter. However, if an employee's actions resulting in harm were not within the course and scope of the employee's duties, then that employee may be subject to suit as an individual to the extent permitted by the laws of the State of North Carolina.

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**Rule-making authority**

N.C. GEN. STAT. ANN. § 15C-12

The Attorney General is authorized to adopt any rules deemed necessary to carry out the provisions of this Chapter.

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**Additional time for action**

N.C. GEN. STAT. ANN. § 15C-13

Whenever the laws of this State provide a program participant a legal right to act within a prescribed period of 10 days or less after the service of a notice or other paper upon the program participant, and the notice or paper is served upon the program participant by mail pursuant to this Chapter, five days shall be added to the prescribed period.

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**Victim protection -- nondiscrimination**

N.C. GEN. STAT. ANN. § 42-42.2

A landlord shall not terminate a tenancy, fail to renew a tenancy, refuse to enter into a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially on: (i) the tenant, applicant, or a household member’s status as a victim of domestic violence, sexual assault, or stalking; or (ii) the tenant or applicant having terminated a rental agreement under G.S. 42-45.1. Evidence provided to the landlord of domestic violence, sexual assault, or stalking may include any of the following:

- (1) Law enforcement, court, or federal agency records or files.
- (2) Documentation from a domestic violence or sexual assault program.
- (3) Documentation from a religious, medical, or other professional.

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**Lock changes**

N.C. GEN. STAT. ANN. § 42-42.3

(a) If the perpetrator of domestic violence, sexual assault, or stalking is not a tenant in the same dwelling unit as the protected tenant, a tenant of a dwelling may give oral or written notice to the landlord that a protected tenant is a victim of domestic violence, sexual assault, or stalking and may request that the locks to the dwelling unit be changed. A protected tenant is not required to provide documentation of the domestic violence, sexual assault, or stalking to initiate the changing of the locks, pursuant to this subsection. A landlord who receives a request under this subsection shall change the locks to the protected tenant’s dwelling unit or give the protected tenant permission to change the locks within 48 hours.

(b) If the perpetrator of the domestic violence, sexual assault, or stalking is a tenant in the same dwelling unit as the victim, any tenant or protected tenant of a dwelling unit may give oral or written notice to the landlord that a protected tenant is a victim of domestic violence, sexual assault, or stalking and may request that the locks to the dwelling unit be changed. In these circumstances, the following shall apply:

- (1) Before the landlord or tenant changes the locks under this subsection, the tenant must provide the landlord with a copy of an order issued by a court that orders the perpetrator to stay away from the dwelling unit.
- (2) Unless a court order allows the perpetrator to return to the dwelling to retrieve personal belongings, the landlord has no duty under the rental agreement or by law to allow the perpetrator access to the dwelling unit, to provide keys to the perpetrator, or to provide the perpetrator access to the perpetrator’s personal property within the dwelling unit once the landlord has been provided with a court order requiring the perpetrator to stay away from the dwelling. If a landlord complies with this section, the landlord is not liable for civil damages, to a perpetrator excluded from the dwelling unit, for loss of use of the dwelling unit or loss of use or damage to the perpetrator’s personal property.
- (3) The perpetrator who has been excluded from the dwelling unit under this subsection remains liable under the lease with any other tenant of the dwelling unit for rent or damages to the dwelling unit.

A landlord who receives a request under this subsection shall change the locks to the protected tenant’s dwelling unit or give the protected tenant permission to change the locks within 72 hours.

(c) The protected tenant shall bear the expense of changing the locks. If a landlord fails to act within the required time, the protected tenant may change the locks without the landlord’s permission. If the protected tenant changes the locks, the protected tenant shall give a key to the new locks to the landlord within 48 hours of the locks being changed.

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**Early termination of rental agreement by victims of domestic violence, sexual assault, or stalking**

N.C. GEN. STAT. ANN. § 42-45.1

(a) Any protected tenant may terminate his or her rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord’s receipt of the notice. The notice to the landlord shall be accompanied by either: (i) a copy of a valid order of protection issued by a court pursuant to Chapter 50B or 50C of the General Statutes, other than an ex parte order, (ii) a criminal order that restrains a person from contact with a protected tenant, or (iii) a valid Address Confidentiality Program card issued pursuant to G.S. 15C-4 to the victim or a minor member of the tenant’s household. A victim of domestic violence or sexual assault must submit a copy of a safety plan with the notice to terminate. The safety plan, dated during the term of the tenancy to be terminated, must be provided by a domestic violence or sexual assault program which substantially complies with the requirements set forth in G.S. 50B-9 and must recommend relocation of the protected tenant.

(b) Upon termination of a rental agreement under this section, the tenant who is released from the rental agreement pursuant to subsection (a) of this section is liable for the rent due under the rental agreement prorated to the effective date of the termination and payable at the time that would have been required by the terms of the rental agreement. The tenant is not liable for any other rent or fees due only to the early termination of the tenancy. If, pursuant to this section, a tenant terminates the rental agreement 14 days or more before occupancy, the tenant is not subject to any damages or penalties.

(c) Notwithstanding the release of a protected tenant from a rental agreement under subsection (a) of this section, or the exclusion of a perpetrator of domestic violence, sexual assault, or stalking by court order, if there are any remaining tenants residing in the dwelling unit, the tenancy shall continue for those tenants. The perpetrator who has been excluded from the dwelling unit under court order remains liable under the lease with any other tenant of the dwelling unit for rent or damages to the dwelling unit.

(d) The provisions of this section may not be waived or modified by agreement of the parties.

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**Relief**

N.C. GEN. STAT. ANN. § 50B-3

(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:

- (1) Direct a party to refrain from such acts.
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household.
- (3) Require a party to provide a spouse and his or her children suitable alternate housing.
- ...
- (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it.
- ...
- (9) Order a party to refrain from doing any or all of the following:
  - ...
  - b. Harassing the other party, including by telephone, visiting the home or workplace, or other means.
  - ...

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# NORTH DAKOTA

North Dakota has enacted the following laws regarding survivors' housing rights:

- Orders excluding the restrained party from the protected party's residence. N.D. CODE §§ 14-07.1-02, 14-07.1-03.
- Victim's right to protection order not compromised by leaving residence. N.D. CODE § 14-07.1-05.
- Early lease termination. N.D. CODE § 47-16-17.1.
- Confidentiality of records. N.D. CODE § 14-07.1-18.

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## **Domestic violence protection order**

N.D. CODE § 14-07.1-02

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4. Upon a showing of actual or imminent domestic violence, the court may enter a protection order after due notice and full hearing. The relief provided by the court may include any or all of the following:

- a. Restraining any party from threatening, molesting, injuring, harassing, or having contact with any other person.
- b. Excluding either the respondent or any person with whom the respondent lives from the dwelling they share, from the residence of another person against whom the domestic violence is occurring, or from a domestic violence care facility, if this exclusion is necessary to the physical or mental well-being of the applicant or others.

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## **Temporary protection order--Copy to law enforcement agency**

N.D. CODE § 14-07.1-03

1. If an application under section 14-07.1-02 alleges an immediate and present danger of domestic violence to the applicant, based upon an allegation of a recent incident of actual domestic violence, the court may grant an ex parte temporary protection order, pending a full hearing, granting such relief as the court deems proper.

2. An ex parte temporary protection order may include:

- a. Restraining any party from having contact with or committing acts of domestic violence on another person.
- b. Excluding the respondent or any person with whom the respondent lives from the dwelling they share, from the residence of another person, or from a domestic violence shelter care facility.

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**Right to apply for relief**

N.D. CODE § 14-07.1-05

A person’s right to apply for relief under section 14-07.1-02 or 14-07.1-03 is not affected if the person leaves the residence or dwelling to avoid domestic violence. The court may not require security or bond from any party unless the court deems it necessary in exceptional cases.

**Termination due to domestic abuse**

N.D. CODE § 47-16-17.1

1. A tenant to a residential lease who is a victim of domestic violence as defined in section 14-07.1-01 or fears imminent domestic violence against the tenant or the tenant’s minor children if the tenant or the tenant’s minor children remain in the leased premises may terminate a lease agreement, as provided in this section, without penalty or liability.
2. The tenant must provide advance written notice to the landlord stating :
  - a. The tenant fears imminent domestic violence from a person named in a court order, protection order under section 14-07.1-02, ex parte temporary protection order, order prohibiting contact, restraining order, or other record filed with a court;
  - b. The tenant needs to terminate the tenancy; and
  - c. The specific date the tenancy will terminate.
3. The notice must be delivered by mail, facsimile communication, or in person before the termination of the tenancy.
4. A landlord may not disclose information provided to the landlord by a tenant documenting domestic violence under this section. The information may not be entered into any shared data base or provided to any person, but may be used as evidence in an eviction proceeding, in a claim for unpaid rent or damages arising out of the tenancy, or as otherwise required by law.

5. A tenant terminating a lease under this section is responsible for the rent payment for the full month in which the tenancy terminates and an additional amount equal to one month's rent, subject to the landlord's duty to mitigate. The tenant is relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section.

6. This section does not affect a tenant's liability for delinquent, unpaid rent, or other amounts owed to the landlord before the lease was terminated by the tenant under this section.

7. The tenancy terminates, including the right of possession of the premises, on the termination date stated in the notice under subsection 2. The amount equal to one month's rent must be paid on or before the termination of the tenancy for the tenant to be relieved of the contractual obligations for the remaining term of the lease as provided in this section.

8. For purposes of this section, timing for the payment of the lessee's security deposit under section 47-16-07.1 is triggered by either of the following:

- a. If the only tenant, including the tenant's minor children, is the tenant who is the victim of domestic violence, upon the first day of the month following the date the tenant vacates the premises.
- b. If there are additional tenants bound by the lease, upon the expiration of the lease.

9. Notwithstanding the release of a tenant from a lease agreement under this section, the tenancy continues for any remaining tenants.

10. A person may not refuse to rent, refuse to negotiate for the rental of, or in any other manner make unavailable or deny a dwelling to an individual, or otherwise retaliate in the rental of a dwelling solely because a tenant or applicant or a household member of the tenant or applicant exercised the right to terminate a lease under this section.

11. In an action for a violation of this section, the court may award statutory damages of one thousand dollars. The court also may award actual damages, reasonable attorney's fees, costs, and disbursements.

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**Domestic violence or sexual assault program records—confidentiality—Exceptions—Penalty**

N.D. CODE § 14-07.1-18

1. All agents, employees, and volunteers participating in a domestic violence or sexual assault program shall maintain the confidentiality of the:

- a. Address, telephone number, and other identifying information of a shelter, safe home, and place of emergency safe housing;
- b. Name, address, telephone number, personally identifying information, and case file or

history of any client receiving services from a domestic violence or sexual assault program; and

c. Name, address, telephone number, and other identifying information of an agent, employee, or volunteer providing services under a domestic violence or sexual assault program.

2. The information described in subsection 1 is not subject to section 44-04-18 and may not be disclosed unless:

a. A client consents to the release of information that relates only to that client or the client's dependents;

b. The agent, employee, or volunteer operating a domestic violence or sexual assault program determines the disclosure of the information necessary for the efficient and safe operation of a domestic violence or sexual assault program; or for the protection of the safety of an employee, agent, volunteer, or client of a domestic violence or sexual assault program; or for the protection of a third party reasonably thought to be in need of protection;

c. A court of competent jurisdiction orders the disclosure after an in camera review and a written finding by the court that the information directly and specifically relates to a determination of child abuse and neglect under chapter 50-25.1 or termination of parental rights under sections 14-15-19, 27-20-44, 27-20-45, 27-20-46, 27-20-47, and 27-20-48; or

d. An agent, employee, or volunteer working with a domestic violence or sexual assault program has knowledge or reasonable cause to suspect a child has been abused or neglected as defined by section 50-25.1-02.

3. Any person who violates this section is guilty of an infraction.

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# OHIO

Ohio has enacted the following laws regarding survivors' housing rights:

- Address confidentiality program. OHIO REV. CODE ANN. §§ 111.41, 111.42, 111.43, 111.46, 111.47, 111.99.
- A petitioner's right to obtain a protection order is not affected if the petitioner leaves the residence. OHIO REV. CODE ANN. § 3113.31.
- Orders excluding the restrained party from the petitioner's residence. OHIO REV. CODE ANN. § 3113.31.
- Orders allowing the restrained party to provide suitable alternate housing in the case of a consent agreement. OHIO REV. CODE ANN. § 3113.31.

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## **Address confidentiality program**

### OHIO REV. CODE ANN. §§ 111.41-111.99

As used in sections 111.41 to 111.99 of the Revised Code:

(A) "Application assistant" means an employee or volunteer at an agency or organization that serves victims of domestic violence, menacing by stalking, human trafficking, trafficking in persons, rape, or sexual battery who has received training and certification from the secretary of state to help individuals complete applications to be program participants.

(B) "Confidential address" means the address of a program participant's residence, school, institution of higher education, business, or place of employment, as specified on an application to be a program participant or on a notice of change of address filed under section 111.42 of the Revised Code. A confidential address is not a public record under section 149.43 of the Revised Code, and shall be kept confidential.

(C) "Governmental entity" means the state, a political subdivision of the state, or any department, agency, board, commission, or other instrumentality of the state or a political subdivision of the state.

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### OHIO REV. CODE ANN. § 111.42

(A) Except for a person described in division (F) of this section, an adult person, or a parent or guardian acting on behalf of a minor, incompetent, or ward, when changing residence, may apply to the secretary of state with the assistance of an application assistant to have an address designated by the secretary of state serve as the person's address or the address of the minor,

incompetent, or ward. The application shall be made on a form prescribed by the secretary of state and filed in the office of the secretary of state in the manner prescribed by the secretary of state

....

(D) The certification of a program participant shall be valid for four years after the date of the filing of the application for the program participant unless the certification is withdrawn or invalidated before the end of that four-year period.

(E)(1) A program participant who continues to be eligible to participate in the address confidentiality program may renew the program participant's certification by submitting a renewal application to the secretary of state with the assistance of an application assistant. The renewal application shall be on a form prescribed by the secretary of state and shall contain all of the information described in division (A) of this section.

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OHIO REV. CODE ANN. § 111.43

(A) A program participant may request that a governmental entity, other than a board of elections, use the address designated by the secretary of state as the program participant's address. Except as otherwise provided in division (D) of this section and in section 111.44 of the Revised Code, if the program participant requests that a governmental entity use that address, the governmental entity shall accept that address.

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(C)

(1) The office of the secretary of state shall, on each day that the secretary of state's office is open for business, place all first class mail of a program participant that the secretary of state receives into an envelope or package and mail that envelope or package to the program participant at the mailing address the program participant provided to the secretary of state for that purpose. The secretary of state may contract with the United States postal service to establish special postal rates for the envelopes or packages used in mailing a program participant's first class mail under this section.

(2)(a) Upon receiving service of process on behalf of a program participant, the office of the secretary of state shall immediately forward the process by certified mail, return receipt requested, to the program participant at the mailing address the program participant provided to the secretary of state for that purpose. Service of process upon the office of the secretary of state on behalf of a program participant constitutes service upon the program participant under rule 4.2 of the Rules of Civil Procedure .

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(c) Upon request by a person who intends to serve process on an individual, the secretary of state shall confirm whether the individual is a program participant but shall not disclose any other information concerning a program participant.

(D) Division (A) of this section does not apply to a municipal-owned public utility. The confidential addresses of participants of the address confidentiality program that are maintained by a municipal-owned public utility are not a public record and shall not be released by a municipal- owned public utility or by any employee of a municipal-owned public utility.

OHIO REV. CODE ANN. § 111.44

(A) A program participant who is eligible to vote may apply to the board of elections of the county in which the program participant resides to request that the program participant's voter registration record be kept confidential.

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OHIO REV. CODE ANN. § 111.46

(A) The secretary of state shall make available to the attorney general, for inclusion into the Ohio law enforcement gateway, the name, telephone number, and confidential address of each program participant. Access to information in the gateway regarding an address confidentiality program participant may only be granted to chiefs of police, village marshals, county sheriffs, county prosecuting attorneys, and a designee of each of these individuals.

A city director of law or similar chief legal officer who requires access to a program participant's confidential address or telephone number for a legitimate governmental purpose may petition the court of common pleas of Franklin county to order the secretary of state to make that confidential address or telephone number available to the petitioner.

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OHIO REV. CODE ANN. § 111.47

(A) Notwithstanding division (A)(3) of section 2743.02 of the Revised Code and except if the performance or nonperformance was manifestly outside the scope of the officer's or employee's office or employment or the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner, the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty under the address confidentiality program.

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OHIO REV. CODE ANN. § 111.99

(A) No person who submits an application under section 111.42 of the Revised Code shall knowingly make a false attestation in the application that the applicant fears for the applicant's safety, the safety of a member of the applicant's household, or the safety of the minor, incompetent, or ward on whose behalf the application is made because the applicant, household

member, minor, incompetent, or ward is a victim of domestic violence, menacing by stalking, human trafficking, trafficking in persons, rape, or sexual battery .

(B) No person who has access to a confidential address or telephone number because of the person's employment or official position shall knowingly disclose that confidential address or telephone number to any person, except as required by law.

(C) No person who obtains a confidential address or telephone number from the Ohio law enforcement gateway shall knowingly disclose that confidential address or telephone number to any person, except as is necessary for a law enforcement purpose when related to the performance of official duties, or for another legitimate governmental purpose.

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

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**Petitions; protection orders concerning domestic violence or sexually oriented offense; support orders**

OHIO REV. CODE ANN. § 3113.31

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(B) The court has jurisdiction over all proceedings under this section. The petitioner's right to relief under this section is not affected by the petitioner's leaving the residence or household to avoid further domestic violence.

...

(E)(1) After an ex parte or full hearing, the court may grant any protection order, with or without bond, or approve any consent agreement to bring about a cessation of domestic violence against the family or household members. The order or agreement may:

- (a) Direct the respondent to refrain from abusing or from committing sexually oriented offenses against the family or household members;
- (b) Grant possession of the residence or household to the petitioner or other family or household member, to the exclusion of the respondent, by evicting the respondent, when the residence or household is owned or leased solely by the petitioner or other family or household member, or by ordering the respondent to vacate the premises, when the residence or household is jointly owned or leased by the respondent, and the petitioner or other family or household member;
- (c) When the respondent has a duty to support the petitioner or other family or household member living in the residence or household and the respondent is the sole owner or lessee of the residence or household, grant possession of the residence or household to the petitioner or other family or household member, to the exclusion of the respondent, by ordering the respondent to vacate the

premises, or, in the case of a consent agreement, allow the respondent to provide suitable, alternative housing;

...

(k) Require a wireless service transfer in accordance with sections 3113.45 to 3113.459 of the Revised Code.

...

(2) If a protection order has been issued pursuant to this section in a prior action involving the respondent and the petitioner or one or more of the family or household members or victims, the court may include in a protection order that it issues a prohibition against the respondent returning to the residence or household. If it includes a prohibition against the respondent returning to the residence or household in the order, it also shall include in the order provisions of the type described in division (E)(7) of this section. This division does not preclude the court from including in a protection order or consent agreement, in circumstances other than those described in this division, a requirement that the respondent be evicted from or vacate the residence or household or refrain from entering the residence, school, business, or place of employment of the petitioner or a family or household member, and, if the court includes any requirement of that type in an order or agreement, the court also shall include in the order provisions of the type described in division (E)(7) of this section.

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(7)(a) If a protection order issued or consent agreement approved under this section includes a requirement that the respondent be evicted from or vacate the residence or household or refrain from entering the residence, school, business, or place of employment of the petitioner or a family or household member, the order or agreement shall state clearly that the order or agreement cannot be waived or nullified by an invitation to the respondent from the petitioner or other family or household member to enter the residence, school, business, or place of employment or by the respondent's entry into one of those places otherwise upon the consent of the petitioner or other family or household member.

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# OKLAHOMA

Oklahoma has enacted the following law regarding survivors' housing rights:

- Address confidentiality program. OKLA. STAT. tit. 22, § 60.14.
- Housing assistance and crisis intervention services for survivors of domestic violence. OKLA. ADMIN. CODE §§ 75:15-2-1, 75:15-2-3, 75:15-2-4, 75:15-2-5, 75:15-2-6.
- Consideration of domestic violence in determining placement on a housing waiting list. OKLA. ADMIN. CODE §§ 330:50-3-7, 330:50-15-15.

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## **Address confidentiality program**

OKLA. STAT. tit. 22, § 60.14

A. The Legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this section is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, sexual assault, or stalking, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic abuse, sexual assault, or stalking, and to enable state and local agencies to accept an address designated by the Attorney General by a program participant as a substitute mailing address....

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## **Service programs core services**

OKLA. ADMIN. CODE § 75:15-2-1

- (a) All certified programs shall serve residential and non-residential victims of domestic violence, sexual assault and stalking and their dependents or family members.
- (b) All certified programs shall provide a safe, accessible, and trauma-informed services for survivors of domestic violence, sexual assault and stalking and their dependents or family members.
- (c) The program shall develop a philosophy of service provision based upon voluntary services and individual self-determination. The written statement of the philosophy of services shall be approved by the governing authority and made available to the community, staff, volunteers and clients.
- (d) The program shall have policy and procedures to maintain facilities, staffing, and operational methods, including a policy on the recruitment of board members, staff and

volunteers who are representative of the diversity in the local community and the diversity of their clients.

- (e) All certified programs shall provide sexual assault services.
- (f) All certified programs shall offer crisis intervention services.
- (g) All certified programs shall offer danger assessment, safety planning, counseling or support, support groups, and advocacy in a trauma-informed environment.
- (h) All certified programs shall offer services that are free from all forms of unlawful discrimination based on race, gender, religion, color, age, national origin, and/or disability (i.e., physical, mental illness, and substance abuse), including a policy that services to immigrant women will not be denied or diminished on the basis of immigration status.
- (i) All certified programs shall provide public education to increase the community's awareness and understanding of domestic violence, sexual assault and stalking, available and needed resources, and identify the role community can play in eliminating domestic violence, sexual assault, and stalking.
- (j) Compliance with 75:15-2-1 shall be determined by a review of the program's policy and procedures, service agreements, on site observation, client and staff or volunteer interviews and/or other supporting documentation.

### **Transitional living program**

#### OKLA. ADMIN. CODE § 75:15-2-3

- (a) All shelter programs shall comply with section 75:15-2-1 and each shelter program shall provide long-term (thirty [30] days or more) shelter services and staffing to offer services twenty-four (24) hours per day, seven (7) days per week and offer the following:
  - (1) Shelter program shall provide room, food, bathing and laundry facilities, necessary clothing and toiletries for victims and their children free of charge. Programs shall not ask clients to use their nutrition assistance benefits to supplement food for the facility.
  - (2) Shelters shall be staffed at all times when clients are in residence. When there are no clients in residence, each shelter program must assure availability for immediate contact or services.
  - (3) The shelter's policy shall have written procedures regarding the supervision of children.
  - (4) In the event the shelter does not offer services to clients with dependent boys over the age of twelve, the shelter shall have written policies regarding linkage to alternative provision of services including emergency shelter.

- (5) Shelter programs shall offer screening, referral and linkage to clients and callers to appropriate community resources, to include assistance in making initial contact.
- (6) The shelter program shall maintain cooperation/liaison with the local school system.
- (7) Each shelter program must ensure to the best of its ability the physical and emotional safety, security, and confidentiality of clients and the location of the shelter.
- (8) The shelter shall maintain a written policy for involuntary exit criteria.

(b) Compliance with 75:15-2-2 shall be determined by a review of policy and procedures, service agreements, on site observation, and/or other supporting documentation.

### **Safe home program**

#### OKLA. ADMIN. CODE § 75:15-2-4

- (a) All Safe Home programs shall comply with section 75:15-2-1 and the following:
  - (1) The program shall offer confidential housing 24 hours a day, 365 days a year.
  - (2) Certified DV/SA providers that have a formal agreement for a Safe Home shall:
    - (A) assure that each Safe Home offers residents with access to minimum necessities including bedding, clothing, articles for grooming and personal hygiene, and food;
    - (B) develop and disseminate to Safe Home providers and residents written rules, policies and procedures that include admission and exit criteria including security measures;
    - (C) have written procedures for monitoring Safe Homes to ensure that the homes meet standards for cleanliness and safety;
    - (D) offer orientation to all clients and require they sign a contract acknowledging they have read and understand the rules of their stay;
    - (E) assign an advocate or liaison for clients. This person, or a crisis line staff or volunteer, shall be available for emergencies and support at all times; and
    - (F) offer at least one 30 minute face-to-face service contact per week with each Safe Home resident.
- (b) The program shall establish criteria to screen potential Safe Home providers. Screening will include an application with references, an interview, and a site visit. Each Safe Home will be reassessed annually.

(c) All Safe Homes must be supervised by the certified program who will conduct on-site observations at least monthly when clients are in residence.

(d) The certified program shall have a written agreement with each Safe Home provider that outlines specific responsibilities of both the program and the provider to include expectations and limitations (e.g., no babysitting or individual advocacy) and compliance with confidentiality. The agreement shall clearly state that the program will not be held liable for damage incurred by the Safe Home provider. Both parties will sign the agreement.

(e) Compliance with 75:15-2-4 shall be determined by a review of program policy and procedures, client records, on site observation, written agreements, and/or other program documentation.

### **Crisis intervention services**

#### OKLA. ADMIN. CODE § 75:15-2-5

(a) All certified DVSA programs shall offer crisis intervention services which include:

(1) Twenty-four (24) hour crisis telephone services staffed by trained staff or volunteers, 24-hour immediate, direct access to crisis advocates. Pagers, answering machines or answering services that do not offer immediate access to a crisis advocate shall not be sufficient to meet this requirement.

(2) Emergency housing such as hotel or motel available for victims and their dependent(s).

(3) Arrangement for safe shelter, food, clothing, and incidentals needed by victim/dependents.

(4) The crisis intervention program shall provide twenty-four (24) hour emergency transportation or access to shelter or other emergency services. Additionally transportation shall be offered for necessary services. This shall not require service providers to be placed in a situation that could result in injury.

(5) Cooperation with law enforcement to offer assistance to the victim and accompanying dependent(s). Programs should ensure victims are educated about participating in the legal prosecution of their offender and that an appropriate release or waiver may be necessary.

(6) Provision of advocacy and referral to assist the victims in obtaining needed services or resources.

(7) Foreign language interpretation.

(8) Follow-up services shall be offered to all victims if victim safety is not compromised.

(b) Group and/or individual counseling or support services shall be made available before or after normal business hours (8 am to 5 pm), if needed by clients. These services shall minimally offer the following:

(1) A facility with offices, individual and group counseling space to offer services.

(2) Advocacy services, both in person and by telephone, either in the locations of other community services and systems, or in the program's offices. Other locations include but are not limited to those necessary to provide court advocacy services to clients.

(3) Current service agreement to be renewed every three (3) years with available community services to offer access to a continuum of needed services for the client. If unable to establish a current service agreement with all appropriate resources in the community, efforts to do so or reasons/opinions why this is not or cannot be done shall be documented.

(4) A resource document of local, area, or state resources to facilitate referrals for clients.

(5) Service approaches that focus on the empowerment of victims to access needed resources and make healthy and safe decisions for themselves and dependents.

(6) For agencies that do not have a behavioral health professional on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with sexual assault related trauma who need additional mental health or substance abuse services.

(c) Compliance with 75:15-2-5 shall be determined by a review of program policy and procedures, client records, on site observation, written agreements, and/or other program documentation.

### **Sexual assault services**

#### OKLA. ADMIN. CODE § 75:15-2-6

(a) All certified programs shall be part of a sexual assault response team in their service area, providing that there is a sexual assault response team in place. The program shall collaborate with other certified DV/SA providers in their service area. When appropriate staff or volunteers are available, the program shall assist the Council on Law Enforcement Education and Training (CLEET) by providing appropriate staff or volunteers to assist in sexual assault and sexual violence training to law enforcement. The program shall offer at a minimum the following services:

- (1) Counseling or advocacy and support services shall be offered in the social service, legal, law enforcement or medical setting, in program offices or at any safe and appropriate site, as needed by the client.
- (2) Twenty four (24) hours, seven (7) days per week access to these services through the program's crisis hotline.
- (3) A twenty-four (24) hour hotline, crisis intervention, in- person advocacy as needed, active listening, or support by trained staff or volunteers with a knowledge of the issues and processes of sexual assault, rape trauma recovery, assessment, referral when indicated and family involvement where chosen by the victim.
- (4) Needed clothing for the sexual assault victim.
- (5) Follow-up contact that does not compromise privacy and safety needs of the victim shall be offered to all sexual assault clients seen in the medical setting. If written permission is granted by the client for follow-up contact, it shall be done no later than fourteen (14) business days after face-to-face crisis intervention. Follow-up will offer the client agency services or other available resources needed by the client.

(b) When appropriate staff or volunteers are available, the program shall assist the Council on Law Enforcement Education and Training (CLEET) by providing appropriate staff or volunteers to assist in sexual assault and sexual violence training to law enforcement.

(c) For agencies that do not have a behavioral health professional on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with sexual assault related trauma who need additional mental health or substance abuse services.

(d) Compliance with 75:15-2-6 shall be determined by a review of program policy and procedures, client records, on site observation, written agreements, and/or other program documentation.

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**Split households prior to certificate/voucher issuance**

OKLA. ADMIN. CODE § 330:50-3-7

(a) When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, OHFA will make the decision taking into consideration the following factors:

- (1) Which family member applied as head of household.

- (2) Which family unit retains the children or any disabled or elderly members.
- (3) Restriction that were in place at the time the family applied.
- (4) Role of domestic violence in the split.
- (5) Recommendations of social service agencies or qualified professionals such as children's protective services.

(b) Documentation of these factors is the responsibility of the applicant families.

**Certificate/Voucher issuance determination for split households**

OKLA. ADMIN. CODE § 330:50-15-15

(a) In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, OHFA shall consider the following factors to determine which of the families will continue to be assisted:

- (1) Which family member was the head of household when the Certificate or Voucher was initially issued (listed on the initial application).
- (2) Which family unit retains the children or any disabled or elderly members.
- (3) Restriction that were in place at the time the family applied.
- (4) Role of domestic violence in the split.
- (5) Recommendations of social service agencies or qualified professionals such as children's protective services
- (6) Documentation of these factors will be the responsibility of the requesting parties.

(b) If documentation is not provided, OHFA will terminate assistance on the basis of failure to provide information necessary for a recertification.

(c) Where the breakup of the family also results in a reduction of the size of the Certificate, the family will be required to move to a smaller unit if the current landlord is unwilling to accept the rent level of the smaller sized Certificate.

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# OREGON

Oregon has enacted the following laws regarding survivors' housing rights:

- Partial eviction of a tenant who perpetrates domestic violence, sexual assault or stalking against a household member. OR. REV. STAT. ANN. §§ 90.445, 105.128.
- Housing discrimination against victims of domestic violence, sexual assault, or stalking is prohibited. OR. REV. STAT. ANN. § 90.449.
- Early lease termination. OR. REV. STAT. ANN. §§ 90.453, 90.456.
- Lock changes. OR. REV. STAT. ANN. § 90.459.
- Address confidentiality program. OR. REV. STAT. ANN. § 192.826.
- Confidentiality protections. OR. REV. STAT. ANN. § 192.502.

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## **Termination of rental agreement of tenant who perpetrates domestic violence, sexual assault or stalking against household member**

OR. REV. STAT. ANN. § 90.445

(1) If a tenant perpetrates a criminal act of physical violence related to domestic violence, sexual assault or stalking against a household member who is a tenant, after delivery of at least 24 hours' written notice specifying the act or omission constituting the cause and specifying the date and time of the termination, the landlord may:

(a) Terminate the rental agreement of the perpetrating tenant, but may not terminate the rental agreement of the other tenants; and

(b) If the perpetrator of the criminal act of physical violence related to domestic violence, sexual assault or stalking continues to occupy the premises after the termination date and time specified in the notice, seek a court order under ORS 105.128 to remove the perpetrator from the premises and terminate the perpetrator's tenancy without seeking a return of possession from the remaining tenants.

(2) A landlord that terminates the tenancy of a perpetrator under this section may not require the remaining tenants to pay additional rent or an additional deposit or fee due to exclusion of the perpetrator.

(3) The perpetrator is jointly liable with any other tenants of the dwelling unit for rent or damages to the premises incurred prior to the later of the date the perpetrator vacates the premises or the termination date specified in the notice.

(4) The landlord’s burden of proof in a removal action sought under this section is by a preponderance of the evidence.

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**Discrimination against victims of domestic violence, sexual assault or stalking prohibited**

OR. REV. STAT. ANN. § 90.449

(1) A landlord may not terminate or fail to renew a tenancy, serve a notice to terminate a tenancy, bring or threaten to bring an action for possession, increase rent, decrease services or refuse to enter into a rental agreement:

(a) Because a tenant or applicant is, or has been, a victim of domestic violence, sexual assault or stalking.

(b) Because of a violation of the rental agreement or a provision of this chapter, if the violation consists of an incident of domestic violence, sexual assault or stalking committed against the tenant or applicant.

(c) Because of criminal activity relating to domestic violence, sexual assault or stalking in which the tenant or applicant is the victim, or of any police or emergency response related to domestic violence, sexual assault or stalking in which the tenant or applicant is the victim.

(2) A landlord may not impose different rules, conditions or standards or selectively enforce rules, conditions or standards against a tenant or applicant on the basis that the tenant or applicant is or has been a victim of domestic violence, sexual assault or stalking.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may terminate the tenancy of a victim of domestic violence, sexual assault or stalking if the landlord has previously given the tenant a written warning regarding the conduct of the perpetrator relating to domestic violence, sexual assault or stalking and:

(a) The tenant permits or consents to the perpetrator’s presence on the premises and the perpetrator is an actual and imminent threat to the safety of persons on the premises other than the victim; or

(b) The perpetrator is an unauthorized occupant and the tenant permits or consents to the perpetrator living in the dwelling unit without the permission of the landlord.

(4) If a landlord violates this section:

(a) A tenant or applicant may recover up to two months’ periodic rent or twice the actual damages sustained by the tenant or applicant, whichever is greater;

(b) The tenant has a defense to an action for possession by the landlord; and

(c) The applicant may obtain injunctive relief to gain possession of the dwelling unit.

(5) Notwithstanding ORS 105.137 (4), if a tenant asserts a successful defense under subsection (4) of this section to an action for possession, the tenant is not entitled to prevailing party fees, attorney fees or costs and disbursements if the landlord:

(a) Did not know, and did not have reasonable cause to know, at the time of commencing the action that a violation or incident on which the action was based was related to domestic violence, sexual assault or stalking; and

(b) Promptly dismissed tenants other than the perpetrator from the action upon becoming aware that the violation or incident on which the action was based was related to domestic violence, sexual assault or stalking.

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**Victim of domestic violence, sexual assault or stalking; release from rental agreement; verification statement**

OR. REV. STAT. ANN. § 90.453

(1) As used in this section:

(a) “Immediate family member” means, with regard to a tenant who is a victim of domestic violence, sexual assault or stalking, any of the following who is not a perpetrator of the domestic violence, sexual assault or stalking against the tenant:

(A) An adult person related by blood, adoption, marriage or domestic partnership, as defined in ORS 106.310, or as defined or described in similar law in another jurisdiction;

(B) A cohabitant in an intimate relationship;

(C) An unmarried parent of a joint child; or

(D) A child, grandchild, foster child, ward or guardian of the victim or of anyone listed in subparagraph (A), (B) or (C) of this paragraph.

(b) “Qualified third party” means a person that has had individual contact with the tenant and is a law enforcement officer, attorney or licensed health professional or is a victim's advocate at a victim services provider.

(c) “Verification” means:

(A) A copy of a valid order of protection issued by a court pursuant to ORS 30.866, 107.095 (1)(c), 107.716, 107.718, 107.725, 107.730, 163.738, 163.765, 163.767 or 163.775 or any other federal, state, local or tribal court order that restrains a person from contact with the tenant;

(B) A copy of a federal agency or state, local or tribal police report regarding an act of domestic violence, sexual assault or stalking against the tenant;

(C) A copy of a conviction of any person for an act of domestic violence, sexual assault or stalking against the tenant; or

(D) A statement substantially in the form set forth in subsection (3) of this section.

(d) “Victim services provider” means:

(A) A nonprofit agency or program receiving moneys administered by the Department of Human Services or the Department of Justice that offers safety planning, counseling, support or advocacy to victims of domestic violence, sexual assault or stalking; or

(B) A prosecution-based victim assistance program or unit.

(2)(a) If a tenant gives a landlord at least 14 days’ written notice, and the notice so requests, the landlord shall release the tenant and any immediate family member of the tenant from the rental agreement.

(b) The notice given by the tenant must specify the release date and must list the names of any immediate family members to be released in addition to the tenant.

(c) The notice must be accompanied by verification that the tenant:

(A) Is protected by a valid order of protection; or

(B) Has been the victim of domestic violence, sexual assault or stalking within the 90 days preceding the date of the notice. For purposes of this subparagraph, any time the perpetrator was incarcerated or residing more than 100 miles from the victim's home does not count as part of the 90-day period.

(3) A verification statement must be signed by the tenant and the qualified third party and be in substantially the following form:

\_\_\_\_\_

QUALIFIED THIRD PARTY

VERIFICATION

Name of qualified third party

\_\_\_\_\_

Name of tenant

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PART 1. STATEMENT BY TENANT

I, \_\_\_\_\_ (Name of tenant), do hereby state as follows:

(A) I or a minor member of my household have been a victim of domestic violence, sexual assault or stalking, as those terms are defined in ORS 90.100.

(B) The most recent incident(s) that I rely on in support of this statement occurred on the following date(s): \_\_\_\_\_.

\_\_ The time since the most recent incident took place is less than 90 days; or

\_\_ The time since the most recent incident took place is less than 90 days if periods when the perpetrator was incarcerated or was living more than 100 miles from my home are not counted. The perpetrator was incarcerated from \_\_\_\_\_ to \_\_\_\_\_. The perpetrator lived more than 100 miles from my home from \_\_\_\_\_ to \_\_\_\_\_.

(C) I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

(Signature of tenant)

Date: \_\_\_\_\_

PART 2. STATEMENT BY QUALIFIED THIRD PARTY

I, \_\_\_\_\_ (Name of qualified third party), do hereby verify as follows:

(A) I am a law enforcement officer, attorney or licensed health professional or a victim's advocate with a victims services provider, as defined in ORS 90.453.

(B) My name, business address and business telephone are as follows:

(C) The person who signed the statement above has informed me that the person or a minor member of the person's household is a victim of domestic violence, sexual assault or stalking, based on incidents that occurred on the dates listed above.

(D) I reasonably believe the statement of the person above that the person or a minor member of the person's household is a victim of domestic violence, sexual assault or stalking, as those terms

are defined in ORS 90.100. I understand that the person who made the statement may use this document as a basis for gaining a release from the rental agreement with the person's landlord.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

\_\_\_\_\_

(Signature of qualified third party

making this statement)

Date: \_\_\_\_\_

(4) A tenant and any immediate family member who is released from a rental agreement pursuant to subsection (2) of this section:

(a) Is not liable for rent or damages to the dwelling unit incurred after the release date; and

(b) Is not subject to any fee solely because of termination of the rental agreement.

(5) Notwithstanding the release from a rental agreement of a tenant who is a victim of domestic violence, sexual assault or stalking and any tenant who is an immediate family member of that tenant, other tenants remain subject to the rental agreement.

(6) A landlord may not disclose any information provided by a tenant under this section to a third party unless the disclosure is:

(a) Consented to in writing by the tenant;

(b) Required for use in an eviction proceeding;

(c) Made to a qualified third party; or

(d) Required by law.

(7) The provision of a verification statement under subsection (2) of this section does not waive the confidential or privileged nature of a communication between the victim of domestic violence, sexual assault or stalking and a qualified third party.

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**Victim of domestic violence, sexual assault or stalking; continuation of tenancy**

OR. REV. STAT. ANN. § 90.456

Notwithstanding the release of a tenant who is a victim of domestic violence, sexual assault or stalking, and any immediate family members of that tenant, from a rental agreement under ORS 90.453 or the exclusion of a perpetrator of domestic violence, sexual assault or stalking as provided in ORS 90.459 or 105.128, if there are any remaining tenants of the dwelling unit, the tenancy shall continue for those tenants. Any fee, security deposit or prepaid rent paid by the victim, perpetrator or other tenants shall be applied, accounted for or refunded by the landlord following termination of the tenancy and delivery of possession by the remaining tenants as provided in ORS 90.300 and 90.302.

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**Victim of domestic violence, sexual assault or stalking; changing of locks**

OR. REV. STAT. ANN. § 90.459

(1) A tenant may give actual notice to the landlord that the tenant is a victim of domestic violence, sexual assault or stalking and may request that the locks to the dwelling unit be changed. A tenant is not required to provide verification of the domestic violence, sexual assault or stalking to initiate the changing of the locks.

(2) A landlord who receives a request under subsection (1) of this section shall promptly change the locks to the tenant's dwelling unit at the tenant's expense or shall give the tenant permission to change the locks. If a landlord fails to promptly act, the tenant may change the locks without the landlord's permission. If the tenant changes the locks, the tenant shall give a key to the new locks to the landlord.

(3) If the perpetrator of the domestic violence, sexual assault or stalking is a tenant in the same dwelling unit as the victim:

(a) Before the landlord or tenant changes the locks under this section, the tenant must provide the landlord with a copy of an order issued by a court pursuant to ORS 107.716 or 107.718 or any other federal, state, local or tribal court that orders the perpetrator to move out of the dwelling unit.

(b) The landlord has no duty under the rental agreement or by law to allow the perpetrator access to the dwelling unit or provide keys to the perpetrator, during the term of the court order or after expiration of the court order, or to provide the perpetrator access to the perpetrator's personal property within the dwelling unit. Notwithstanding ORS 90.425, 90.435 or 90.675, if a landlord complies completely and in good faith with this section, the landlord is not liable to a perpetrator excluded from the dwelling unit.

(c) The perpetrator is jointly liable with any other tenant of the dwelling unit for rent or damages to the dwelling unit incurred prior to the date the perpetrator was excluded from the dwelling unit.

(d) Except as provided in subsection (2) of this section, the landlord may not require the tenant to pay additional rent or an additional deposit or fee because of the exclusion of the perpetrator.

(e) The perpetrator’s tenancy terminates by operation of law upon an order described in paragraph (a) of this subsection becoming a final order.

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**Termination of perpetrator’s tenancy; possession of dwelling unit**

OR. REV. STAT. ANN. § 105.128

In an action for possession of a dwelling unit to which ORS chapter 90 applies:

(1) If the defendant raises a defense under ORS 90.449 based upon the defendant’s status as a victim of domestic violence, sexual assault or stalking and the perpetrator is a tenant of the dwelling unit, the court may issue an order terminating the tenancy of the perpetrator and ordering the perpetrator to vacate the dwelling unit without terminating the tenancy of the other tenants and without awarding possession to the plaintiff.

(2) If the action is based upon a notice terminating the tenancy of a perpetrator under ORS 90.445, the court may issue an order upholding the termination of the perpetrator’s tenancy and ordering the perpetrator to vacate the dwelling unit without the tenancy of the other tenants being terminated and without awarding possession to the plaintiff.

(3) If a court issues an order described in subsection (1) or (2) of this section, the court may enter judgment in favor of the plaintiff against the perpetrator. The plaintiff may enforce the judgment against the perpetrator as provided in ORS 105.151, but may not enforce the judgment against any other tenant of the dwelling unit. The sheriff shall remove only the perpetrator from the dwelling unit. The sheriff may not return possession of the dwelling unit to the plaintiff.

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**Participation in Address Confidentiality Program**

OR. REV. STAT. ANN. § 192.826

(1) Any of the following individuals with the assistance of an application assistant may file an application with the Attorney General to participate in the Address Confidentiality Program:

(a) An adult individual.

(b) A parent or guardian acting on behalf of a minor when the minor resides with the parent or guardian.

(c) A guardian acting on behalf of an incapacitated individual.

(2) The application must be dated, signed and verified by the applicant and the application assistant who assisted in the preparation of the application.

(3) The application must contain all of the following:

(a) A statement by the applicant that the applicant or the applicant's child or ward is a victim of domestic violence, a sexual offense, stalking or human trafficking and that the applicant fears for the applicant's safety or the safety of the applicant's child or ward.

(b) Evidence that the applicant or the applicant's child or ward is a victim of domestic violence, a sexual offense, stalking or human trafficking. This evidence may include any of the following:

(A) Law enforcement, court or other federal, state or local government records or files;

(B) Documentation from a public or private entity that provides assistance to victims of domestic violence, a sexual offense, stalking or human trafficking if the applicant or the applicant's child or ward is an alleged victim of domestic violence, a sexual offense, stalking or human trafficking;

(C) Documentation from a religious, medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense, stalking or human trafficking; or

(D) Other forms of evidence as determined by the Attorney General by rule.

(c) A statement by the applicant that disclosure of the actual address of the applicant would endanger the safety of the applicant or the safety of the applicant's child or ward.

(d) A statement by the applicant that the applicant:

(A) Resides at a location in this state that is not known by assailants or potential assailants of the applicant or the applicant's child or ward; and

(B) Will not disclose the location to assailants or potential assailants of the applicant or the applicant's child or ward while the applicant is a program participant.

(e) Written consent permitting the Attorney General to act as an agent for the applicant for the service of all legal process in this state and the receipt of first-class, certified or registered mail.

(f) The mailing address and telephone number at which the Attorney General can contact the applicant.

(g) The actual address that the applicant requests not be disclosed by the Attorney General that directly relates to the increased risk of the applicant or the applicant's child or ward as a victim of domestic violence, a sexual offense, stalking or human trafficking.

(h) A sworn statement by the applicant that to the best of the applicant's knowledge the information contained in the application is true.

(i) A recommendation by an application assistant that the applicant be a participant in the Address Confidentiality Program.

(4) Upon the filing of a properly completed application and upon approval by the Attorney General, the Attorney General shall certify the applicant as a program participant.

(5) Upon certification, the Attorney General shall issue an Address Confidentiality Program authorization card to the program participant. The Address Confidentiality Program authorization card is valid as long as the program participant remains certified under the program.

(6) The term of certification shall be for a period of time determined by the Attorney General by rule, unless prior to the end of the period one of the following occurs:

(a) The program participant withdraws the certification by filing with the Attorney General a request for withdrawal signed by the program participant and acknowledged in writing by a notary public or an application assistant; or

(b) The Attorney General cancels the certification under ORS 192.834.

(7) A program participant may renew the certification by filing an application for renewal with the Attorney General at least 30 days prior to expiration of the current certification.

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**Other public records exempt from disclosure**

OR. REV. STAT. ANN. § 192.502

The following public records are exempt from disclosure under ORS 192.410 to 192.505:

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(38) Records of or submitted to a domestic violence service or resource center that relate to the name or personal information of an individual who visits a center for service, including the date of service, the type of service received, referrals or contact information or personal information of a family member of the individual. As used in this subsection, “domestic violence service or resource center” means an entity, the primary purpose of which is to assist persons affected by domestic or sexual violence by providing referrals, resource information or other assistance specifically of benefit to domestic or sexual violence victims.

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# PENNSYLVANIA

Pennsylvania has enacted the following laws regarding survivors' housing rights:

- Protection orders granting possession to the plaintiff of the residence to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff. 23 PA. CONS. STAT. ANN. § 6108.
- Protection orders directing the defendant to provide suitable alternate housing. 23 PA. CONS. STAT. ANN. § 6108.
- Protection orders directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. 23 PA. CONS. STAT. ANN. § 6108.
- Protection orders directing the defendant to pay the plaintiff's relocation and moving expenses. 23 PA. CONS. STAT. ANN. § 6108.
- Rights of victims of domestic violence to appeal a judgment for possession. 68 PA. CONS. STAT. ANN. § 250.513.
- Address confidentiality program. 23 PA. CONS. STAT. ANN. §§ 6703-6705.
- Protection for victims of abuse from the enforcement of a nuisance ordinance or regulation if police or emergency services respond to a residence or tenancy to assist a victim of abuse or crime or individuals in an emergency. 53 PA. CONS. STAT. ANN. § 304.

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## Relief

### 23 PA. CONS. STAT. ANN. § 6108

(a) General rule.--The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

- (1) Directing the defendant to refrain from abusing the plaintiff or minor children.
- (2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff if the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) If the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternate housing.

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(5) After a hearing in accordance with section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support, requiring the defendant, under sections 4324 (relating to inclusion of medical support) and 4326 (relating to mandatory inclusion of child medical support), to provide health coverage for the minor child and spouse, directing the defendant to pay all of the unreimbursed medical expenses of a spouse or minor child of the defendant to the provider or to the plaintiff when he or she has paid for the medical treatment, and directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

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(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; costs of repair or replacement of real or personal property damaged, destroyed or taken by the defendant or at the direction of the defendant; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees. An award under this chapter shall not constitute a bar to litigation for civil damages for injuries sustained from the acts of abuse giving rise to the award or a finding of contempt under this chapter.

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**Appeal by tenant to common pleas court**

68 PA. CONS. STAT. ANN. § 250.513

(a) Every tenant who files an appeal to a court of common pleas of a judgment of the lower court involving an action under this act for the recovery of possession of real property or for rent due shall deposit with the prothonotary a sum equal to the amount of rent due as determined by the lower court. This sum representing the rent due or in question shall be placed in a special escrow

account by the prothonotary. The prothonotary shall only dispose of these funds by order of court.

(b) Within ten days after the rendition of judgment by a lower court arising out of residential lease or within thirty days after a judgment by a lower court arising out of a nonresidential lease or a residential lease involving a victim of domestic violence, either party may appeal to the court of common pleas, and the appeal by the tenant shall operate as a supersedeas only if the tenant pays in cash or bond the amount of any judgment rendered by the lower court or is a victim of domestic violence and pays in cash any rent which becomes due during the court of common pleas proceedings within ten days after the date each payment is due into an escrow account with the prothonotary or the supersedeas shall be summarily terminated.

(c) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

(d) Upon application by the tenant, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to directly compensate those providers of habitable services which the landlord is required to provide under law or under the lease.

(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Lower court.” District justice, magistrate or any other court having jurisdiction over landlord and tenant matters, excluding a court of common pleas.

“Victim of domestic violence.” A person who has obtained a protection from abuse order against another individual or can provide other suitable evidence as the court shall direct.

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**Address Confidentiality Program**

23 PA. CONS. STAT. ANN. § 6703

(a) Establishment.--The Office of Victim Advocate shall establish a program to be known as the Address Confidentiality Program. Upon application and certification, persons eligible under section 6704 (relating to persons eligible to apply) shall receive a confidential substitute address provided by the Office of Victim Advocate.

(b) Administration.--The Office of Victim Advocate shall forward all first class, registered and certified mail at no expense to a program participant within three business days. The Office of Victim Advocate may arrange to receive and forward other classes or kinds of mail at the program participant's expense.

(c) Notice.--Upon certification, the Office of Victim Advocate shall provide notice of participation and the program participant's substitute address to appropriate officials involved in an ongoing civil or criminal case in which a program participant is a victim, witness, plaintiff or defendant.

(d) Records.--All records relating to applicants and program participants are the property of the Office of Victim Advocate. These records, including program applications, participants' actual addresses and waiver proceedings, shall be kept confidential and shall not be subject to the provisions of the act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right-to-Know Law, except that records may be released as specifically set forth in this chapter and to a district attorney to the extent necessary for the prosecution of conduct as set forth in section 6711 (relating to penalties).

### **Domestic and Sexual Violence Victim Address Confidentiality; Persons eligible to apply**

#### 23 PA. CONS. STAT. ANN. § 6704

The following persons shall be eligible to apply to become program participants:

(1) A victim of domestic violence who files an affidavit with the Office of Victim Advocate stating the affiant's eligibility for a protection from abuse order and further stating that the affiant fears future violent acts by the perpetrator of the abuse.

(2) A victim of sexual assault who files an affidavit with the Office of Victim Advocate describing the perpetrator's violent actions or threatened violent actions toward the affiant and further stating that the affiant fears future violent acts by the perpetrator of the sexual violence.

(3) A victim of stalking who files an affidavit with the Office of Victim Advocate describing the perpetrator's course of conduct or repeated actions toward the affiant meeting the criteria enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking) and further stating that the affiant fears future violent acts by the perpetrator of the stalking.

(4) A person who is a member of the same household as a program participant.

(5) A program participant who notifies the Office of Victim Advocate of the participant's intent to continue in the program prior to the expiration of certification.

### **Domestic and Sexual Violence Victim Address Confidentiality; Application and certification process**

#### 23 PA. CONS. STAT. ANN. § 6705

(a) General rule.--A person must file an application with the Office of Victim Advocate on a form prescribed by the Office of Victim Advocate. The Office of Victim Advocate shall certify eligible applicants as program participants in accordance with the procedures outlined in

subsection (b). Certification shall be valid for a period of three years following the date of certification unless the certification is withdrawn or canceled before the expiration of that period.

(b) Requirements for certification.--The Office of Victim Advocate shall certify an applicant as a program participant if:

- (1) The applicant meets the eligibility requirements under section 6704 (relating to persons eligible to apply).
- (2) The applicant designates the Office of Victim Advocate as an agent for the purpose of receiving service of process.
- (3) The application contains the applicant’s actual address and telephone number where the applicant can be contacted.
- (4) The application contains a list of all pending civil and criminal proceedings in which the applicant is a victim, witness, plaintiff or defendant and, if applicable, the applicant’s involvement with State and county probation and parole.
- (5) The application contains a statement signed by the applicant affirming that the information provided by the applicant is true to the best of the applicant’s information, knowledge and belief.
- (6) The application contains a statement signed by the applicant acknowledging that the applicant has a continuing duty to notify the Office of Victim Advocate of any change in the information provided to the Office of Victim Advocate in accordance with this chapter. The duty shall remain in effect for the duration of participation in the program.
- (7) The application contains the date, the applicant’s signature and the signature of any person who assisted in the preparation of the application.

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**Protection for Victims of Abuse or Crime**

53 PA. CONS. STAT. ANN. § 304

(a) Declaration of policy.—The General Assembly finds and declares as follows:

- (1) It is the public policy of the Commonwealth to ensure that all victims of abuse and crime and individuals in an emergency are able to contact police or emergency assistance without penalty.
- (2) This section is intended to shield residents, tenants and landlords from penalties that may be levied pursuant to enforcement of an ordinance or regulation if police or emergency services respond to a residence or tenancy to assist a victim of abuse or crime or individuals in an emergency.

(3) This section is not intended to prohibit municipalities from enforcing an ordinance or regulation against a resident, tenant or landlord where police or emergency services respond to a residence or tenancy that does not involve assistance to a victim of abuse or crime or individuals in an emergency.

(b) Protection.—No ordinance enacted by a municipality shall penalize a resident, tenant or landlord for a contact made for police or emergency assistance by or on behalf of a victim of abuse as defined in 23 Pa.C.S. § 6102 (relating to definitions), a victim of a crime pursuant to 18 Pa.C.S. (relating to crimes and offenses) or an individual in an emergency pursuant to 35 Pa.C.S. § 8103 (relating to definitions), if the contact was made based upon the reasonable belief of the person making the contact that intervention or emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime or emergency or if the intervention or emergency assistance was actually needed in response to the abuse, crime or emergency.

(c) Remedies.—If a municipality enforces or attempts to enforce an ordinance against a resident, tenant or landlord in violation of subsection (b), the resident, tenant or landlord may bring a civil action for a violation of this section and seek an order from a court of competent jurisdiction for any of the following remedies:

- (1) An order requiring the municipality to cease and desist the unlawful practice.
- (2) Payment of compensatory damages, provided that a resident, tenant or landlord shall make a reasonable effort to mitigate any damages.
- (3) Payment of reasonable attorney fees.
- (4) Payment of court costs.
- (5) Other equitable relief, including, but not limited to, reinstating a rental license or rental permit, as the court may deem appropriate.

(d) Preemption.—This section preempts any local ordinance or regulation insofar as it is inconsistent with this section, irrespective of the effective date of the ordinance or regulation. This section shall not affect or apply to enforcement of the act of October 11, 1995 (1st Sp.Sess., P.L. 1066, No. 23),<sup>1</sup> known as the Expedited Eviction of Drug Traffickers Act, or to the enforcement of 18 Pa.C.S. § 7511 (relating to control of alarm devices and automatic dialing devices).

(e) Definition.—As used in this section, the term “penalize” includes the actual or threatened revocation, suspension or nonrenewal of a rental license, the actual or threatened assessment of fines or the actual or threatened eviction, or causing the actual or threatened eviction, from leased premises.

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<sup>1</sup> 35 P.S. § 780-151 *et seq.*

# RHODE ISLAND

Rhode Island has enacted the following laws regarding survivors' housing rights:

- Right to file protective orders. R.I. GEN. LAWS § 8-8.1-3.
- Owners are prohibited from discriminating against victims of domestic abuse. R.I. GEN. LAWS §§ 34-37-1 – 34-37-4.
- Address confidentiality program. R.I. GEN. LAWS § 17-28-3.

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## **Protective orders—Penalty—Jurisdiction**

### R.I. GEN. LAWS § 8-8.1-3

(a) A person suffering from domestic abuse may file a complaint in the district court requesting any order which will protect her or him from the abuse, including but not limited to the following:

(1) Ordering that the defendant be restrained and enjoined from contacting, assaulting, molesting or otherwise interfering with the plaintiff at home, on the street, or elsewhere, whether the defendant is an adult or minor;

(2) Ordering the defendant to vacate the household forthwith, unless the defendant holds sole legal interest in the household;

(3) Upon motion by the plaintiff, his or her address shall be released only at the discretion of the district court judge;

(4) After notice to the respondent and after a hearing, the court may order the defendant to surrender physical possession of all firearms in his or her possession, care, custody or control.

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## **Finding and declaration of policy**

### R.I. GEN. LAWS § 34-37-1

(a) In the State of Rhode Island and Providence Plantations, hereinafter referred to as the state, many people are denied equal opportunity in obtaining housing accommodations and are forced to live in circumscribed areas because of discriminatory housing practices based upon race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a

member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse. These practices tend unjustly to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions in crowded, unsanitary, substandard, and unhealthful accommodations. These conditions breed intergroup tension as well as vice, disease, juvenile delinquency, and crime; increase the fire hazard; endanger the public health; jeopardize the public safety, general welfare and good order of the entire state; and impose substantial burdens on the public revenues for the abatement and relief of conditions so created. These discriminatory and segregative housing practices are inimical to and subvert the basic principles upon which the colony of Rhode Island and Providence Plantations was founded and upon which the state and the United States were later established. Discrimination and segregation in housing tend to result in segregation in our public schools and other public facilities, which is contrary to the policy of the state and the constitution of the United States. Further, discrimination and segregation in housing adversely affect urban renewal programs and the growth, progress, and prosperity of the state. In order to aid in the correction of these evils, it is necessary to safeguard the right of all individuals to equal opportunity in obtaining housing accommodations free of discrimination.

(b) It is hereby declared to be the policy of the state to assure to all individuals regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, or disability, age, familial status, housing status, or those tenants or applicants, or members of a household, who are, or have been, or are threatened with being, the victims of domestic abuse, or those tenants or applicants who have obtained, or sought, or are seeking, relief from any court in the form of a restraining order for protection from domestic abuse, equal opportunity to live in decent, safe, sanitary, and healthful accommodations anywhere within the state in order that the peace, health, safety, and general welfare of all the inhabitants of the state may be protected and insured.

(c) The practice of discrimination in rental housing based on the potential or actual tenancy of a person with a minor child, or on the basis that a tenant or applicant, or a member of the household, is or has been or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse is declared to be against public policy.

(d) This chapter shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, and peace of the people of the state.

(e) Nothing in this section shall prevent a landlord from proceeding with eviction action against a tenant who fails to comply with § 34-18-24(7).

**Right to equal housing opportunities--Civil rights**R.I. GEN. LAWS § 34-37-2

The right of all individuals in the state to equal housing opportunities and regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or regardless of the fact that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, is hereby recognized as, and declared to be, a civil right. Nothing in this section shall prevent a landlord from proceeding with eviction action against a tenant who fails to comply with § 34-18-24(7).

**Right to equal housing opportunities—Victims of domestic violence status**R.I. GEN. LAWS § 34-37-2.4

It shall be unlawful and against public policy to discriminate against a tenant or applicant for housing solely on the basis that said tenant or applicant is a victim of domestic violence.

**Unlawful housing practices**R.I. GEN. LAWS § 34-37-4

(a) No owner having the right to sell, rent, lease, or manage a housing accommodation as defined in § 34-37-3(11), or an agent of any of these shall, directly or indirectly, make or cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin or disability, age, familial status nor make any written or oral inquiry concerning whether a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or whether a tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of any prospective purchaser, occupant, or tenant of the housing accommodation; or shall, directly or indirectly, refuse to sell, rent, lease, let, or otherwise deny to or withhold from any individual the housing accommodation because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, or familial status of the individual or the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin or disability, age, or familial status of any person with whom the individual is or may wish to be associated; or shall, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse. Nor shall an owner having the right to sell, rent, lease, or manage a housing accommodation as defined in § 34-37-3(11), or an agent of any of these, directly or indirectly, issue any advertisement relating to the sale, rental, or lease of the housing accommodation which indicates any preference, limitation, specification, or discrimination based upon race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability,

age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, or shall, directly or indirectly, discriminate against any individual because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, in the terms, conditions, or privileges of the sale, rental, or lease of any housing accommodation or in the furnishing of facilities or services in connection with it. Nothing in this subsection shall be construed to prohibit any oral or written inquiry as to whether the prospective purchaser or tenant is over the age of eighteen (18).

(b) No person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation, whether secured or unsecured shall directly or indirectly make or cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or any express written or oral inquiry into whether a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or whether a tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of any individual seeking the financial assistance, or of existing or prospective occupants or tenants of the housing accommodation; nor shall any person to whom the application is made in the manner provided, directly or indirectly, discriminate in the terms, conditions, or privileges relating to the obtaining or use of any financial assistance against any applicant because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of the applicant or of the existing or prospective occupants or tenants. Nothing in this subsection shall be construed to prohibit any written or oral inquiry as to whether the applicant is over the age of eighteen (18).

(c) Nothing in this section contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease, or manage a housing accommodation to establish standards and preferences and set terms, conditions, limitations, or specifications in the selling, renting, leasing, or letting thereof or in the furnishing of facilities or services in connection therewith which do not discriminate on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of any prospective purchaser, lessee, tenant, or occupant thereof or on the race, color, religion, sex,

sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, or familial status of any person with whom the prospective purchaser, lessee, tenant, or occupant is or may wish to be associated. Nothing contained in this section shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations, or specifications for the granting of loans or financial assistance which do not discriminate on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant, or a member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, of the applicant for the loan or financial assistance or of any existing or prospective owner, lessee, tenant, or occupant of the housing accommodation.

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**Address confidentiality program--Application--Certification**

R.I. GEN. LAWS § 17-28-3

(a) An adult person who is a victim of domestic violence and any member of his/her household may apply to the secretary of state to have an address designated by the secretary of state serve as the person’s address. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(1) A sworn statement by the applicant:

(i) That the applicant is a victim of domestic violence, as defined in § 17-28-2(c) of this chapter;

(ii) That the applicant fears for his or her safety or his or her children’s safety, or;

(iii) That the applicant resides in the same household as a victim of domestic violence, as defined in subsection 17-28-2(c); and

(iv) That the individual who committed the domestic violence has knowledge that the applicant lives in the same household as the victim of domestic violence, as defined in subsection 17-28-2(c).

(2) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(3) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence;

(4) The signature of the applicant, and of any individual or representative of any office designated in writing under § 17-28-6 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the secretary of state.

(c) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall establish by rule a renewal procedure.

(d) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children, or who knowingly provides false or incorrect information upon making an application, shall be punished by a fine of not more than five hundred dollars (\$500).

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# SOUTH CAROLINA

South Carolina has enacted the following law regarding survivors' housing rights:

- Orders excluding the restrained party from the protected party's residence. S.C. CODE ANN. § 20-4-60.
- Right to relief not affected by leaving residence. S.C. CODE ANN. § 20-4-120.

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## **Order of protection; contents.**

### S.C. CODE ANN. § 20-4-60

(A) Any order of protection granted under this chapter shall be to protect the petitioner or the abused person or persons on whose behalf the petition was filed and may include:

- (1) temporarily enjoining the respondent from abusing, threatening to abuse, or molesting the petitioner or the person or persons on whose behalf the petition was filed;
- (2) temporarily enjoining the respondent from communicating or attempting to communicate with the petitioner in any way which would violate the provisions of this chapter and temporarily enjoining the respondent from entering or attempting to enter the petitioner's place of residence, employment, education, or other location as the court may order.

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(C) When the court has, after a hearing for any order of protection, issued an order of protection, it may, in addition:

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- (3) when the respondent has a legal duty to support the petitioner or minor children living in the household and the household's residence is jointly leased or owned by the parties or the respondent is the sole owner or lessee, grant temporary possession to the petitioner of the residence to the exclusion of the respondent;

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## **Actions not affecting right to relief**

### S.C. CODE ANN. § 20-4-120

The petitioner's right to relief under this chapter is not affected by leaving the residence or household to avoid further abuse.

The petitioner's right to relief under this chapter is not affected by the use of such physical force against the respondent as is reasonably believed by the petitioner to be necessary to defend the petitioner or others from imminent physical injury or abuse.

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# SOUTH DAKOTA

South Dakota has enacted the following law regarding survivors' housing rights:

- Orders excluding the restrained party from the protected party's residence. S.D. CODIFIED LAWS §§ 25-10-5, 25-10-6.
- Departure from household does not affect right to relief. S.D. CODIFIED LAWS § 25-10-9.
- Exclusion of person charged with domestic abuse from survivor's home as condition of release. S.D. CODIFIED LAWS § 25-10-41.

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## **Relief authorized on finding abuse--Time limitation**

### S.D. CODIFIED LAWS § 25-10-5

Upon notice and a hearing, if the court finds by a preponderance of the evidence that domestic abuse has taken place, the court may provide relief as follows:

- (1) Restrain any party from committing acts of domestic abuse;
- (2) Exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

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## **Ex parte temporary protection order**

### S.D. CODIFIED LAWS § 25-10-6

If an affidavit filed with an application under this chapter alleges that immediate and irreparable injury, loss, or damage will result before an adverse party or his or her attorney can be heard in opposition, the court may grant an ex parte temporary protection order pending a full hearing and granting relief as the court deems proper, including an order:

- (1) Restraining any person in a relationship described in § 25-10-3.1 from committing acts of domestic abuse;
- (2) Excluding any person in a relationship described in § 25-10-3.1 from the dwelling or the residence of the petitioner.

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**Departure of petitioner from household not waiving right to relief**

S.D. CODIFIED LAWS § 25-10-9

A person's right to apply for relief under this chapter may not be affected by the departure of that person from the residence or household to avoid abuse.

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**Conditions of release of person charged with domestic abuse**

S.D. CODIFIED LAWS § 25-10-41

In determining the conditions of release under § 25-10-40, the court shall consider the following conditions and may impose any condition it considers reasonably necessary to protect the alleged victim of domestic abuse, including ordering the defendant:

- (1) Not to subject the victim to further domestic abuse;
- (2) To vacate the home of the victim;

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As used in this section, the term, domestic abuse, means a violation of § 22-18-1 or 22-18-1.1 if the victim is a person in a relationship described in § 25-10-3.1.

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# TENNESSEE

Tennessee has enacted the following law regarding survivors' housing rights:

- If domestic abuse is the underlying offense for which a tenancy is terminated, only the perpetrator may be evicted. TENN. CODE ANN. §§ 29-18-102, 66-28-517, 66-7-109.
- Protection orders granting the petitioner possession of the residence to the exclusion of the respondent by evicting the respondent, restoring possession to the petitioner, or both. TENN. CODE ANN. § 36-3-606.
- Protection orders directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence. TENN. CODE ANN. § 36-3-606.
- Protection orders directing the respondent to pay the petitioner all costs and fees related to the petitioner's breach of a lease if continuing to reside in the rental unit may jeopardize the safety of the petitioner. TENN. CODE ANN. § 36-3-606.
- The petitioner's right to relief is not affected by the petitioner's leaving the residence. TENN. CODE ANN. § 36-3-613.
- Confidentiality of records. TENN. CODE ANN. § 10-7-504.

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TENN. CODE ANN. § 29-18-102

...  
(c)(1) In any case in which domestic abuse, as defined in § 36-3-601, is the underlying offense for which a tenancy is terminated, only the person who committed the domestic abuse shall be subject to an action for forcible entry and detainer by the landlord. In such cases, victims of the domestic abuse, minor children, and innocent occupants shall not be subject to the action.

(2) If a written lease is in effect, the landlord may remove the person who committed the domestic abuse from the lease agreement and require the remaining occupants to execute a new agreement for the remainder of the lease term.

(3) If the domestic abuse is committed by a guest or other person on the premises, the landlord may require the victim to agree, in writing, not to allow the guest or other person on the premises for the remainder of the tenancy, a violation of which would be cause to terminate the tenancy as to the victim.

(4) Nothing in this subsection (c) shall prohibit the eviction of a victim of domestic abuse for nonpayment of rent, a lease violation, or any violation of this chapter.

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TENN. CODE ANN. § 66-28-517

(a) A landlord may terminate a rental agreement within three (3) days from the date written notice is received by the tenant if the tenant or any other person on the premises with the tenant's consent:

- (1) Willfully or intentionally commits a violent act;

- (2) Behaves in a manner which constitutes or threatens to be a real and present danger to the health, safety or welfare of the life or property of other tenants or persons on the premises; or
- (3) Creates a hazardous or unsanitary condition on the property that affects the health, safety or welfare or the life or property of other tenants or persons on the premises.

(b) The notice required by this section shall specifically detail the violation which has been committed and shall be effective only from the date of receipt of the notice by the tenant.

(c) Upon receipt of such written notice, the tenant shall be entitled to immediate access to any court of competent jurisdiction for the purpose of obtaining a temporary or permanent injunction against such termination by the landlord.

(d) Nothing in this section shall be construed to allow a landlord to recover or take possession of the dwelling unit by action or otherwise including willful diminution of services to the tenant by interrupting or causing interruption of electric, gas or other essential service to the tenant except in the case of abandonment or surrender.

(e) If the landlord's action in terminating the lease under this provision is willful and not in good faith, the tenant may in addition recover actual damages sustained by the tenant plus reasonable attorney's fees.

(f) The failure to bring an action for or to obtain an injunction may not be used as evidence in any action to recover possession of the dwelling unit.

(g)

(1) If domestic abuse, as defined in § 36-3-601, is the underlying offense for which a tenancy is terminated, only the perpetrator may be evicted. The landlord shall not evict the victims, minor children under eighteen (18) years of age, or innocent occupants, any of whom occupy the subject premises under a lease agreement, based solely on the domestic abuse. Even if evicted or removed from the lease, the perpetrator shall remain financially liable for all amounts due under all terms and conditions of the present lease agreement.

(2) If a lease agreement is in effect at the time that the domestic abuse is committed, the landlord may remove the perpetrator from the lease agreement and require the remaining adult tenants to qualify for and enter into a new agreement for the remainder of the present lease term. The landlord shall not be responsible for any and all damages suffered by the perpetrator due to the bifurcation and termination of the lease agreement in accordance with this section.

(3) If domestic abuse, as defined in § 36-3-601, is the underlying offense for which tenancy could be terminated, the victim and all adult tenants shall agree, in writing, not to allow the perpetrator to return to the subject premises or any part of the community property, and to immediately report the perpetrator's return to the proper authority, for the remainder of the tenancy. A violation of such agreement shall be cause to terminate tenancy as to any victim and all other tenants.

(4) The rights under this section shall not apply until the victim has been judicially granted an order of protection against the perpetrator for the specific incident for which tenancy is being terminated, a copy of such order has been provided to the landlord, and the order:

- (A) Provides for the perpetrator to move out or vacate immediately;

(B) Prohibits the perpetrator from coming by or to a shared residence;

(C) Requires that the perpetrator stay away from the victim's residence; or

(D) Finds that the perpetrator's continuing to reside in the rented or leased premises may jeopardize the life, health, and safety of the victim or the victim's minor children.

(5) Failure to comply with this section, or dismissal of an order of protection that allows application of this section, abrogates the rights provided to the victim, minor children, and innocent occupants under this section.

(6) The rights granted in this section shall not apply in any situation where the perpetrator is a child or dependent of any tenant.

(7) Nothing in this section shall prohibit the eviction of a victim of domestic abuse for non-payment of rent, a lease violation, or any violation of this chapter.

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TENN. CODE ANN. § 66-7-109

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(f)

(1) If domestic abuse, as defined in § 36-3-601, is the underlying offense for which a tenancy is terminated, only the perpetrator may be evicted. The landlord shall not evict the victims, minor children under eighteen (18) years of age, or innocent occupants, any of whom occupy the subject premises under a lease agreement, based solely on the domestic abuse. Even if evicted or removed from the lease, the perpetrator shall remain financially liable for all amounts due under all terms and conditions of the present lease agreement.

(2) If a lease agreement is in effect, the landlord may remove the perpetrator from the lease agreement and require the remaining adult tenants to qualify for and enter into a new agreement for the remainder of the present lease term. The landlord shall not be responsible for any and all damages suffered by the perpetrator due to the bifurcation and termination of the lease agreement in accordance with this section.

(3) If domestic abuse, as defined in § 36-3-601, is the underlying offense for which tenancy could be terminated, the victim and all adult tenants shall agree, in writing, not to allow the perpetrator to return to the subject premises or any part of the community property, and to immediately report the perpetrator's return to the proper authority, for the remainder of the tenancy. A violation of such agreement shall be cause to terminate tenancy as to the victim and all other tenants.

(4) The rights under this section shall not apply until the victim has been judicially granted an order of protection against the perpetrator for the specific incident for which tenancy is being terminated, a copy of such order has been provided to the landlord, and the order:

- (A) Provides for the perpetrator to move out or vacate immediately;
- (B) Prohibits the perpetrator from coming by or to a shared residence;
- (C) Requires that the perpetrator stay away from the victim's residence; or
- (D) Finds that the perpetrator's continuing to reside in the rented or leased premises may jeopardize the life, health, and safety of the victim or the victim's minor children.

(5) Failure to comply with this section, or dismissal of an order of protection that allows application of this section, abrogates the rights provided to the victim, minor children, and innocent occupants under this section.

(6) The rights granted in this section shall not apply in any situation where the perpetrator is a child or dependent of any tenant.

(7) Nothing in this section shall prohibit the eviction of a victim of domestic abuse for non-payment of rent, a lease violation, or any violation of this chapter.

(g) Nothing in this section shall apply to rental property located in any county governed by the Uniform Residential Landlord and Tenant Act, compiled in title 66, chapter 28.

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**Protection orders; contents**

TENN. CODE ANN. § 36-3-606

(a) A protection order granted under this part to protect the petitioner from domestic abuse, stalking or sexual assault may include, but is not limited to:

- (1) Directing the respondent to refrain from committing domestic abuse, stalking or sexual assault or threatening to commit domestic abuse, stalking or sexual assault against the petitioner or the petitioner's minor children;
- (2) Prohibiting the respondent from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;
- (3) Prohibiting the respondent from stalking the petitioner, as defined in § 39-17-315;
- (4) Granting to the petitioner possession of the residence or household to the exclusion of the respondent by evicting the respondent, by restoring possession to the petitioner, or by both;
- (5) Directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence or household;

...

(11) Directing the respondent to pay the petitioner all costs, expenses and fees pertaining to the petitioner's breach of a lease or rental agreement for residential property if the petitioner is a party to the lease or rental agreement and if the court finds that continuing to reside in the rented or

leased premises may jeopardize the life, health and safety of the petitioner or the petitioner’s children. Nothing in this subdivision (a)(11) shall be construed as altering the terms of, liability for, or parties to such lease or rental agreement.

(b) Relief granted pursuant to subdivisions (a)(4)-(8) shall be ordered only after the petitioner and respondent have been given an opportunity to be heard by the court.

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(d) No order of protection made under this part shall in any manner affect title to any real property.

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**Leaving residence or household to avoid domestic abuse**

TENN. CODE ANN. § 36-3-613

(a) The petitioner’s right to relief under this part is not affected by the petitioner’s leaving the residence or household to avoid domestic abuse, stalking or sexual assault.

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**Confidentiality of certain records**

TENN. CODE ANN. § 10-7-504(a)

(16)

(A) As used in this subdivision (a)(16), unless the context otherwise requires:

(i) “Governmental entity” means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) “Identifying information” means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(iii) “Protection document” means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

- (d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;
- (e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;
- (f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and
- (g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence.

(B) If the procedure set out in this subdivision (a)(16) is followed, identifying information compiled and maintained by a governmental entity concerning a person who has obtained a valid protection document may be treated as confidential and may not be open for inspection by the public.

(C) For subdivision (a)(16)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document presented must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the record custodian may accept receipt of it. If the records custodian does not accept receipt of such document, the records custodian shall explain to the person presenting the document why receipt cannot be accepted and that the identifying information concerning such person will not be maintained as confidential. If the records custodian does accept receipt of the protection document, such records custodian shall maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subdivision (a)(16). Nothing in this subdivision (a)(16) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents; provided, that the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(16) shall remain confidential until the person requesting such confidentiality notifies in person the appropriate records custodian of the governmental entity that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(16)(E), and the identifying information about such person shall be treated in the same manner as identifying information maintained by the governmental entity about other persons. Before removing the protection document and releasing any identifying information, the records custodian of the governmental entity shall require that the person

requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such records custodian that that person is the same person as the person to whom the document was originally granted.

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# TEXAS

Texas has enacted the following laws regarding survivors' housing rights:

- Protection of the tenant's right to call for law enforcement assistance. TEX. PROP. CODE. ANN. § 92.015.
- Early lease termination. TEX. PROP. CODE. ANN. §§ 92.016–92.0161.
- Compensation for relocation and housing expenses. TEX. CODE CRIM. PROC. ANN. art. 56.42.
- Address confidentiality program. TEX. CODE CRIM. PROC. ANN. art. 56.82–56.83.
- Address confidentiality in tax appraisal records. TEX. TAX CODE ANN. § 25.025.

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## **Tenant's Right to Summon Police or Emergency Assistance**

TEX. PROP. CODE. ANN. § 92.015

(a) A landlord may not:

(1) prohibit or limit a residential tenant's right to summon police or other emergency assistance in response to family violence; or

(2) impose monetary or other penalties on a tenant who summons police or emergency assistance in response to family violence.

(b) A provision in a lease is void if the provision purports to:

(1) waive a tenant's right to summon police or other emergency assistance in response to family violence; or

(2) exempt any party from a liability or a duty under this section.

(c) In addition to other remedies provided by law, if a landlord violates this section, a tenant is entitled to recover from or against the landlord:

(1) a civil penalty in an amount equal to one month's rent;

(2) actual damages suffered by the tenant as a result of the landlord's violation of this section;

(3) court costs;

(4) injunctive relief; and

(5) reasonable attorney’s fees incurred by the tenant in seeking enforcement of this section.

(d) For purposes of this section, if a tenant’s rent is subsidized in whole or in part by a governmental entity, “one month’s rent” means one month’s fair market rent.

(e) For purposes of this section, “family violence” has the meaning assigned by Section 71.004, Family Code.

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**Right to Vacate and Avoid Liability Following Family Violence**

TEX. PROP. CODE. ANN. § 92.016

(a) For purposes of this section:

(1) “Family violence” has the meaning assigned by Section 71.004, Family Code.

(2) “Occupant” means a person who has the landlord's consent to occupy a dwelling but has no obligation to pay the rent for the dwelling.

(b) A tenant may terminate the tenant’s rights and obligations under a lease and may vacate the dwelling and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the dwelling before the end of the lease term if the tenant complies with Subsection (c) and provides the landlord or the landlord’s agent a copy of one or more of the following orders protecting the tenant or an occupant from family violence:

(1) a temporary injunction issued under Subchapter F, Chapter 6, Family Code;

(2) a temporary ex parte order issued under Chapter 83, Family Code; or

(3) a protective order issued under Chapter 85, Family Code.

(c) A tenant may exercise the rights to terminate the lease under Subsection (b), vacate the dwelling before the end of the lease term, and avoid liability beginning on the date after all of the following events have occurred:

(1) a judge signs an order described by Subsection (b);

(2) the tenant provides a copy of the relevant documentation described by Subsection (b) to the landlord;

(3) the tenant provides written notice of termination of the lease to the landlord on or before the 30th day before the date the lease terminates;

(4) the 30th day after the date the tenant provided notice under Subdivision (3) expires; and

(5) the tenant vacates the dwelling.

(c-1) If the family violence is committed by a cotenant or occupant of the dwelling, a tenant may exercise the right to terminate the lease under the procedures provided by Subsection (b)(1) or (3) and Subsection (c), except that the tenant is not required to provide the notice described by Subsection (c)(3).

(d) Except as provided by Subsection (f), this section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under this section.

(e) A landlord who violates this section is liable to the tenant for actual damages, a civil penalty equal in amount to the amount of one month's rent plus \$500, and attorney's fees.

(f) A tenant who terminates a lease under Subsection (b) is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain language substantially equivalent to the following:

“Tenants may have special statutory rights to terminate the lease early in certain situations involving family violence or a military deployment or transfer.”

(g) A tenant's right to terminate a lease before the end of the lease term, vacate the dwelling, and avoid liability under this section may not be waived by a tenant.

### **Right to Vacate and Avoid Liability Following Certain Sex Offenses or Stalking**

#### TEX. PROP. CODE. ANN. § 92.0161

(a) In this section, “occupant” has the meaning assigned by Section 92.016.

(b) A tenant may terminate the tenant's rights and obligations under a lease and may vacate the dwelling and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the dwelling before the end of the lease term after the tenant complies with Subsection (c) or (c-1).

(c) If the tenant is a victim or a parent or guardian of a victim of sexual assault under Section 22.011, Penal Code, aggravated sexual assault under Section 22.021, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual performance by a child under Section 43.25, Penal Code, continuous sexual abuse of a child under Section 21.02, Penal Code, or an attempt to commit any of the foregoing offenses under Section 15.01, Penal Code, that takes place during

the preceding six-month period on the premises or at any dwelling on the premises, the tenant shall provide to the landlord or the landlord's agent a copy of:

- (1) documentation of the assault or abuse, or attempted assault or abuse, of the victim from a licensed health care services provider who examined the victim;
- (2) documentation of the assault or abuse, or attempted assault or abuse, of the victim from a licensed mental health services provider who examined or evaluated the victim;
- (3) documentation of the assault or abuse, or attempted assault or abuse, of the victim from an individual authorized under Chapter 420, Government Code, who provided services to the victim; or
- (4) documentation of a protective order issued under Chapter 7A, Code of Criminal Procedure, except for a temporary ex parte order.

(c-1) If the tenant is a victim or a parent or guardian of a victim of stalking under Section 42.072, Penal Code, that takes place during the preceding six-month period on the premises or at any dwelling on the premises, the tenant shall provide to the landlord or the landlord's agent a copy of:

- (1) documentation of a protective order issued under Chapter 7A or Article 6.09, Code of Criminal Procedure, except for a temporary ex parte order; or
- (2) documentation of the stalking from a provider of services described by Subsection (c)(1), (2), or (3) and:
  - (A) a law enforcement incident report; or
  - (B) if a law enforcement incident report is unavailable, another record maintained in the ordinary course of business by a law enforcement agency.

(d) A tenant may exercise the rights to terminate the lease under Subsection (b), vacate the dwelling before the end of the lease term, and avoid liability beginning on the date after all of the following events have occurred:

- (1) the tenant provides a copy of the relevant documentation described by Subsection (c) or (c-1) to the landlord;
- (2) the tenant provides written notice of termination of the lease to the landlord on or before the 30th day before the date the lease terminates;
- (3) the 30th day after the date the tenant provided notice under Subdivision (2) expires; and
- (4) the tenant vacates the dwelling.

(e) Except as provided by Subsection (g), this section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under this section.

(f) A landlord who violates this section is liable to the tenant for actual damages, a civil penalty equal to the amount of one month's rent plus \$500, and attorney's fees.

(g) A tenant who terminates a lease under Subsection (b) is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain language substantially equivalent to the following: "Tenants may have special statutory rights to terminate the lease early in certain situations involving certain sexual offenses or stalking."

(h) A tenant may not waive a tenant's right to terminate a lease before the end of the lease term, vacate the dwelling, and avoid liability under this chapter.

(i) For purposes of Subsections (c) and (c-1), a tenant who is a parent or guardian of a victim described by those subsections must reside with the victim to exercise the rights established by this section.

(j) A person who receives information under Subsection (c), (c-1), or (d) may not disclose the information to any other person except for a legitimate or customary business purpose or as otherwise required by law.

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**Limits on Compensation**

TEX. CODE CRIM. PROC. ANN. art. 56.42

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(d) A victim who is a victim of family violence, a victim of trafficking of persons, or a victim of sexual assault who is assaulted in the victim's place of residence may receive a onetime-only assistance payment in an amount not to exceed:

(1) \$2,000 to be used for relocation expenses, including expenses for rental deposit, utility connections, expenses relating to the moving of belongings, motor vehicle mileage expenses, and for out-of-state moves, transportation, lodging, and meals; and

(2) \$1,800 to be used for housing rental expenses.

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**Address Confidentiality Program**

TEX. CODE CRIM. PROC. ANN. art. 56.82

(a) The attorney general shall establish an address confidentiality program, as provided by this subchapter, to assist a victim of family violence, trafficking of persons, or an offense under Section 22.011, 22. 021, 25.02, or 42.072, Penal Code, in maintaining a confidential address.

(b) The attorney general shall:

- (1) designate a substitute post office box address that a participant may use in place of the participant’s true residential, business, or school address;
- (2) act as agent to receive service of process and mail on behalf of the participant; and
- (3) forward to the participant mail received by the office of the attorney general on behalf of the participant.

(c) A summons, writ, notice, demand, or process may be served on the attorney general on behalf of the participant by delivery of two copies of the document to the office of the attorney general. The attorney general shall retain a copy of the summons, writ, notice, demand, or process and forward the original to the participant not later than the third day after the date of service on the attorney general.

(d) The attorney general shall make and retain a copy of the envelope in which certified mail is received on behalf of the participant.

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**Eligibility to Participate in Program**

TEX. CODE CRIM. PROC. ANN. art. 56.83

(a) To be eligible to participate in the program, an applicant must:

- (1) meet with a victim's assistance counselor from a state or local agency or other entity, whether for-profit or nonprofit that is identified by the attorney general as an entity that provides counseling and shelter services to victims of family violence, trafficking of persons, or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code;
- (2) file an application for participation with the attorney general or a state or local agency or other entity identified by the attorney general under Subdivision (1);
- (3) designate the attorney general as agent to receive service of process and mail on behalf of the applicant; and
- (4) live at a residential address, or relocate to a residential address, that is unknown to the

person who committed or is alleged to have committed the family violence, trafficking of persons, or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code.

(b) An application under Subsection (a)(2) must contain:

(1) a signed, sworn statement by the applicant stating that the applicant fears for the safety of the applicant, the applicant's child, or another person in the applicant's household because of a threat of immediate or future harm caused by the person who committed or is alleged to have committed the family violence, the trafficking of persons, or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code;

(2) the applicant's true residential address and, if applicable, the applicant's business and school addresses; and

(3) a statement by the applicant of whether there is an existing court order or a pending court case for child support or child custody or visitation that involves the applicant and, if so, the name and address of:

(A) the legal counsel of record; and

(B) each parent involved in the court order or pending case.

(c) An application under Subsection (a)(2) must be completed by the applicant in person at the state or local agency or other entity with which the application is filed. An applicant who knowingly or intentionally makes a false statement in an application under Subsection (a)(2) is subject to prosecution under Chapter 37, Penal Code.

(d) A state or local agency or other entity with which an application is filed under Subsection (a)(2) shall forward the application to the office of the attorney general.

(e) The attorney general by rule may establish additional eligibility requirements for participation in the program that are consistent with the purpose of the program as stated in Article 56.82(a). The attorney general may establish procedures for requiring an applicant, in appropriate circumstances, to submit with the application under Subsection (a)(2) independent documentary evidence of family violence, trafficking of persons, or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code, in the form of:

(1) an active or recently issued protective order;

(2) an incident report or other record maintained by a law enforcement agency or official;

(3) a statement of a physician or other health care provider regarding the applicant's medical condition as a result of the family violence, trafficking of persons, or offense; or

(4) a statement of a mental health professional, a member of the clergy, an attorney or other legal advocate, a trained staff member of a family violence center, or another

professional who has assisted the applicant in addressing the effects of the family violence, trafficking of persons, or offense.

(f) Any assistance or counseling provided by the attorney general or an employee or agent of the attorney general to an applicant does not constitute legal advice.

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**Confidentiality of Certain Home Address Information**

TEX. TAX CODE ANN. § 25.025

(a) This section applies only to:

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(5) a victim of family violence as defined by Section 71.004, Family Code, if as a result of the act of family violence against the victim, the actor is convicted of a felony or a Class A misdemeanor;

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(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if:

(1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address.

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# UTAH

Utah has enacted the following laws regarding survivors' housing rights:

- Lock changes. UTAH CODE ANN. § 57-22-5.1.
- Early lease termination. UTAH CODE ANN. § 57-22-5.1.
- Confidentiality of address. UTAH CODE ANN. §§ 77-36-2.7; 77-38-6.

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## **Crime victim's right to new locks--Domestic violence victim's right to terminate rental agreement**

UTAH CODE ANN. § 57-22-5.1

(1) As used in this section:

(a) "crime victim" means a victim of:

- (i) domestic violence, as defined in Section 77-36-1;
- (ii) stalking as defined in Section 76-5-106.5;
- (iii) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;
- (iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or
- (v) dating violence, consisting of verbal, emotional, psychological, physical, or sexual abuse of one person by another in a dating relationship.

(b) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.

(2) An acceptable form of documentation of an act listed in Subsection (1) is:

- (a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act; or
- (b) a copy of a police report documenting an act listed in Subsection (1).

(3)(a) A renter who is a crime victim may require the renter's owner to install a new lock to the renter's residential rental unit if the renter:

(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and

(ii) pays for the cost of installing the new lock.

(b) An owner may comply with Subsection (3)(a) by:

(i) rekeying the lock if the lock is in good working condition; or

(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.

(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.

(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the perpetrator of the act listed in Subsection (1).

(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:

(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or

(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.

(4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may terminate a rental agreement if the renter:

(a) is in compliance with:

(i) all provisions of Section 57-22-5; and

(ii) all obligations under the rental agreement;

(b) provides the owner:

(i) written notice of termination; and

(ii) a protective order protecting the renter from a domestic violence perpetrator or a copy of a police report documenting that the renter is a victim of domestic violence and did not participate in the violence; and

(c) no later than the date that the renter provides a notice of termination under Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on the date that the renter provides the notice of termination.

(5) An owner may not:

(a) impose a restriction on a renter's ability to request assistance from a public safety agency; or

(b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.

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**Dismissal–Diversion prohibited–Plea in abeyance–Pretrial protective order pending trial**

UTAH CODE ANN. § 77-36-2.7

(1) Because of the serious nature of domestic violence, the court, in domestic violence actions:

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(c) shall waive any requirement that the victim's location be disclosed other than to the defendant's attorney and order the defendant's attorney not to disclose the victim's location to the client;

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**Victim's right to privacy**

UTAH CODE ANN. § 77-38-6

(1) The victim of a crime has the right, at any court proceeding, including any juvenile court proceeding, not to testify regarding the victim's address, telephone number, place of employment, or other locating information unless the victim specifically consents or the court orders disclosure on finding that a compelling need exists to disclose the information. A court proceeding on whether to order disclosure shall be in camera.

(2) A defendant may not compel any witness to a crime, at any court proceeding, including any juvenile court proceeding, to testify regarding the witness's address, telephone number, place of employment, or other locating information unless the witness specifically consents or the court

orders disclosure on finding that a compelling need for the information exists. A court proceeding on whether to order disclosure shall be in camera.

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# VERMONT

Vermont has enacted the following law regarding survivors' housing rights:

- Orders excluding the restrained party from the protected party's residence. 15 VT. STAT. ANN. §§ 1103, 1104.
- Address confidentiality program. 15 VT. STAT. ANN. § 1152.

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## Requests for relief

### 15 VT. STAT. ANN. § 1103

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him- or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; and

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) Evidence of the plaintiff's past sexual conduct with the defendant.

(2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.

(3) Evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the court administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(k) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904."

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**Emergency relief**

15 VT. STAT. ANN. § 1104

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the Court that the defendant has abused the plaintiff or his or her children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty, the personal liberty of plaintiff's children, or both; and

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment.

(2) Upon a finding that the plaintiff, his or her children, or both have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.

(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order and shall be signed by the judge. Every order issued under this section shall state upon its face a date, time, and place when the defendant may appear to petition the Court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 10 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving abuse by a preponderance of the evidence. If the Court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.

(c) Form complaints and form orders shall be provided by the court administrator and shall be maintained by the clerks of the courts.

(d) Every order issued under this chapter shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(e) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904."

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**Address confidentiality program; application; certification**15 VT. STAT. ANN. § 1152

(a) An adult person, a parent or legal guardian acting on behalf of a minor, or a legal guardian acting on behalf of an incapacitated person, may apply to the Secretary of State to have an address designated by the Secretary serve as the person's address or the address of the minor or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State, and if it contains:

(1) a statement made under oath by the applicant that:

(A) the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, stalking, or human trafficking;

(B) the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(C) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person's behalf;

(D) if the applicant is under the supervision of the Department of Corrections, the applicant has notified the Department of the actual address and the applicant authorizes the release of the actual address to the Department; and

(E) if the applicant is required to report the actual address for the Sex Offender Registry under 13 V.S.A. chapter 167, subchapter 3, the applicant authorizes the release of the actual address to the Registry;

(2) a designation of the Secretary as agent for purposes of service of process and for the purpose of receipt of mail;

(3) the mailing address where the applicant can be contacted by the Secretary and the phone number or numbers where the applicant can be called by the secretary;

(4) the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, stalking, or human trafficking;

(5) the signature of the applicant and the name of any individual or representative of any office who assisted in the preparation of the application and the date on which the applicant signed the application.

(b) Applications shall be filed with the Office of the Secretary.

(c) Upon receipt of a properly completed application, the Secretary shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing,

unless the certification is withdrawn or cancelled before that date. The Secretary shall by rule establish a renewal procedure.

(d) A person who knowingly provides false or incorrect information to the secretary as required by this chapter may be prosecuted under 13 V.S.A. § 2904.

(e) A program participant shall notify the Secretary of State of a change of actual address within seven days of the change of address.

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A program participant may file a petition for a protective order in the county in which he or she resides or in Washington County to protect the confidentiality of his or her address.

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# VIRGINIA

Virginia has enacted the following laws regarding survivors' housing rights:

- Confidentiality of information about victims of certain crimes. VA. CODE ANN. § 63.2-104.1.
- Courts may grant protective orders that do the following:
  1. Grant the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person. VA. CODE ANN. §§ 16.1-253.1; 16.1-279.1.
  2. Enjoining the respondent from terminating utility service to a premises that a petitioner has been granted possession of. VA. CODE ANN. §§ 16.1-253.1; 16.1-279.1.
  3. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner. VA. CODE ANN. §§ 16.1-253.1; 16.1-279.1.
- Early termination of rental agreement. VA. CODE ANN. §§ 55-225.16; 55-248.21:2.
- A lease shall not terminate due solely to an act of family abuse against the tenant. VA. CODE ANN. § 55-248.31.
- Lock changes. VA. CODE ANN. §§ 55-225.5; 55-248.18:1.
- Address confidentiality program. VA. CODE ANN. § 2.2-515.2.

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## **Confidentiality of information about victims of certain crimes**

### VA. CODE ANN. § 63.2-104.1

A. In order to ensure the safety of adult and child victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of §18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, and their families, programs and individuals providing services to such victims shall protect the confidentiality and privacy of persons receiving services.

B. Except as provided in subsections C and D, programs and individuals providing services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, shall not:

1. Disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through programs for victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of §18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; or

2. Reveal individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought; the minor and his parent or legal guardian, in cases in which the client is an unemancipated minor; or the guardian of an incapacitated person as defined in §64.2-2000, whether for this program or any other Federal, State, tribal, or territorial grant program. However, consent for release may not be given by the abuser or alleged abuser of the minor or incapacitated person, or the abuser or alleged abuser of the other parent of the minor.

C. If release of information described in subsection B is compelled by statutory or court mandate, the program or individual providing services shall:

- 1. Make reasonable attempts to provide notice to victims affected by the disclosure of information; and
- 2. Take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

D. Programs and individuals providing services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of §18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, may share:

- 1. Nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;
- 2. Court generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and
- 3. Information necessary for law enforcement and prosecution purposes.

For purposes of this section, "programs" shall include public and not-for-profit agencies the primary mission of which is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of §18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

E. For the purposes of this section, a person may be a victim of domestic violence, dating violence, sexual assault, or stalking, or a victim of a violation of §18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, regardless of whether any person has been charged with or convicted of any offense.

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**Preliminary protective orders in cases of family abuse**

VA. CODE ANN. § 16.1-253.1

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A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

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3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.

4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.

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6. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.

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**Early termination of rental agreements by victims of family abuse, sexual abuse, or criminal sexual assault.**

VA. CODE ANN. § 55-225.16

A. Any tenant who is a victim of (i) family abuse as defined by § 16.1-228, (ii) sexual abuse as defined by § 18.2-67.10, or (iii) other criminal sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 may terminate such tenant’s obligations under a rental agreement under the following circumstances:

1. The victim has obtained an order of protection pursuant to § 16.1-279.1 and has given written notice of termination in accordance with subsection B during the period of the protective order or any extension thereof; or

2. A court has entered an order convicting a perpetrator of any crime of sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, sexual abuse as defined by § 18.2-67.10, or family abuse as defined by § 16.1-228 against the victim and the victim

gives written notice of termination in accordance with subsection B. A victim may exercise a right of termination under this section to terminate a rental agreement in effect when the conviction order is entered and one subsequent rental agreement based upon the same conviction.

B. A tenant who qualifies to terminate obligations under a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated therein, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. When the tenant serves the termination notice on the landlord, the tenant shall also provide the landlord with a copy of (i) the order of protection issued or (ii) the conviction order.

C. The rent shall be payable at such time as would otherwise have been required by the terms of the rental agreement through the effective date of the termination as provided in subsection B.

D. The landlord may not charge any liquidated damages.

E. The victim’s obligations as a tenant under § 55-225.4 shall continue through the effective date of the termination as provided in subsection B. Any co-tenants on the lease with the victim shall remain responsible for the rent for the balance of the term of the rental agreement. If the perpetrator is the remaining sole tenant obligated on the rental agreement, the landlord may terminate the rental agreement and collect actual damages for such termination against the perpetrator.

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**Early termination of rental agreements by victims of family abuse, sexual abuse, or criminal sexual assault**

VA. CODE ANN. § 55-248.21:2

A. Any tenant who is a victim of (i) family abuse as defined by § 16.1-228, (ii) sexual abuse as defined by § 18.2-67.10, or (iii) other criminal sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 may terminate such tenant’s obligations under a rental agreement under the following circumstances:

1. The victim has obtained an order of protection pursuant to § 16.1-279.1 and has given written notice of termination in accordance with subsection B during the period of the protective order or any extension thereof; or
2. A court has entered an order convicting a perpetrator of any crime of sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, sexual abuse as defined by § 18.2-67.10, or family abuse as defined by § 16.1-228 against the victim and the victim gives written notice of termination in accordance with subsection B. A victim may exercise a right of termination under this section to terminate a rental agreement in effect

when the conviction order is entered and one subsequent rental agreement based upon the same conviction.

B. A tenant who qualifies to terminate such tenant’s obligations under a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated therein, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. When the tenant serves the termination notice on the landlord, the tenant shall also provide the landlord with a copy of (i) the order of protection issued or (ii) the conviction order.

C. The rent shall be payable at such time as would otherwise have been required by the terms of the rental agreement through the effective date of the termination as provided in subsection B.

D. The landlord may not charge any liquidated damages.

E. The victim’s obligations as a tenant under § 55-248.16 shall continue through the effective date of the termination as provided in subsection B. Any co-tenants on the lease with the victim shall remain responsible for the rent for the balance of the term of the rental agreement. If the perpetrator is the remaining sole tenant obligated on the rental agreement, the landlord may terminate the rental agreement and collect actual damages for such termination against the perpetrator pursuant to § 55-248.35.

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**Protective order in cases of family abuse**

VA. CODE ANN. § 16.1-279.1

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

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3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

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6. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

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**Noncompliance with rental agreement; monetary penalty**

VA. CODE ANN. § 55-248.31

A. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a violation of § 55-248.16 materially affecting health and safety, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 21 days, and that the rental agreement shall terminate as provided in the notice.

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D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55-248.31:01 based upon information provided by the tenant to the landlord, or by a protective order from a court of competent jurisdiction pursuant to § 16.1-253.1, 16.1-279.1, or subsection B of § 20-103, the lease shall not terminate due solely to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i) the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails promptly to notify the landlord within 24 hours thereafter that the perpetrator has returned to the dwelling unit or the premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual knowledge that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the landlord within 24 hours, in which case the tenant shall promptly notify the landlord, but in no event more than 7 days thereafter. If the provisions of this subsection are not applicable, the tenant shall remain responsible for the acts of the other co-tenants, authorized occupants or guests or invitees pursuant to § 55-248.16, and is subject to termination of the tenancy pursuant to the lease and this chapter.

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**Access following entry of certain court orders**

VA. CODE ANN. § 55-225.5

A. A tenant or authorized occupant who has obtained an order from a court of competent jurisdiction pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such tenant possession of the premises to the exclusion of one or more co-tenants or authorized occupants may provide the landlord with a copy of that court order and request that the landlord either (i) install a new lock or other security devices on the exterior doors of the dwelling unit at the landlord's actual cost or (ii) permit the tenant or authorized occupant to do so, provided:

1. Installation of the new lock or security devices does no permanent damage to any part of the dwelling unit; and
2. A duplicate copy of all keys and instructions of how to operate all devices are given to the landlord.

Upon termination of the tenancy, the tenant shall be responsible for payment to the landlord of the reasonable costs incurred for the removal of all such devices installed and repairs to all damaged areas.

B. A person, who is not a tenant or authorized occupant in the dwelling unit and who has obtained an order from a court of competent jurisdiction pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such person possession of the premises to the exclusion of one or more co-tenants or authorized occupants, may provide a copy of such order to the landlord and submit a rental application to become a tenant in such dwelling unit within 10 days of the entry of such order. If such person's rental application meets the landlord's tenant selection criteria, such person may become a tenant in such dwelling unit under a written rental agreement. If such person submits a rental application and does not meet the landlord's tenant selection criteria, such person shall vacate the dwelling unit no later than 30 days of the date the landlord gives such person written notice that his rental application has been rejected. If such person does not provide a copy of the protective order to the landlord and submit a rental application to the landlord within 10 days as required by this section, such person shall vacate the dwelling unit no later than 30 days of the date of the entry of such order. Such person shall be liable to the landlord for failure to vacate the dwelling unit as required in this section.

Any tenant obligated on a rental agreement shall pay the rent and otherwise comply with any and all requirements of the rental agreement, and any applicable laws and regulations. The landlord may pursue all of its remedies under the rental agreement and applicable laws and regulations, including filing an unlawful detainer action pursuant to § 8.01-126 to obtain a money judgment and to evict any persons residing in such dwelling unit.

C. A landlord who has received a copy of a court order in accordance with subsection A shall not provide copies of any keys to the dwelling unit to any person excluded from the premises by such order.

D. This section shall not apply when the court order excluding a person was issued ex parte.

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**Access; consent; correction of nonemergency conditions; relocation of tenant**

VA. CODE ANN. § 55-248.18

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The tenant may install, within the dwelling unit, new burglary prevention, including chain latch devices approved by the landlord, and fire detection devices, that the tenant may believe necessary to ensure his safety, provided:

1. Installation does no permanent damage to any part of the dwelling unit.
2. A duplicate of all keys and instructions of how to operate all devices are given to the landlord.
3. Upon termination of the tenancy the tenant shall be responsible for payment to the landlord for reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

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**Access following entry of certain court orders**

VA. CODE ANN. § 55-248.18:1

A. A tenant or authorized occupant who has obtained an order from a court of competent jurisdiction pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such tenant possession of the premises to the exclusion of one or more co-tenants or authorized occupants may provide the landlord with a copy of that court order and request that the landlord either (i) install a new lock or other security devices on the exterior doors of the dwelling unit at the landlord's actual cost or (ii) permit the tenant or authorized occupant to do so, provided:

1. Installation of the new lock or security devices does no permanent damage to any part of the dwelling unit; and
2. A duplicate copy of all keys and instructions of how to operate all devices are given to the landlord.

Upon termination of the tenancy, the tenant shall be responsible for payment to the landlord of the reasonable costs incurred for the removal of all such devices installed and repairs to all damaged areas.

B. A person, who is not a tenant or authorized occupant in the dwelling unit and who has obtained an order from a court of competent jurisdiction pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such person possession of the premises to the exclusion of one or more co-tenants or authorized occupants, may provide a copy of such order to the landlord and submit a rental application to become a tenant in such dwelling unit within 10 days of the entry of such order. If such person's rental application meets the landlord's tenant selection criteria, such person may become a tenant in such dwelling unit under a written rental agreement. If such

person submits a rental application and does not meet the landlord's tenant selection criteria, such person shall vacate the dwelling unit no later than 30 days of the date the landlord gives such person written notice that his rental application has been rejected. If such person does not provide a copy of the protective order to the landlord and submit a rental application to the landlord within 10 days as required by this section, such person shall vacate the dwelling unit no later than 30 days of the date of the entry of such order. Such person shall be liable to the landlord for failure to vacate the dwelling unit as required in this section.

Any tenant obligated on a rental agreement shall pay the rent and otherwise comply with any and all requirements of the rental agreement, and any applicable laws and regulations. The landlord may pursue all of its remedies under the rental agreement and applicable laws and regulations, including filing an unlawful detainer action pursuant to § 8.01-126 to obtain a money judgment and to evict any persons residing in such dwelling unit.

C. A landlord who has received a copy of a court order in accordance with subsection A shall not provide copies of any keys to the dwelling unit to any person excluded from the premises by such order.

D. This section shall not apply when the court order excluding a person was issued ex parte.

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**Address confidentiality program established; victims of domestic violence or stalking; application; disclosure of records**

VA. CODE ANN. § 2.2-515.2

A. As used in this section:

“Address” means a residential street address, school address, or work address of a person as specified on the person’s application to be a program participant.

“Applicant” means a person who is a victim of domestic violence or stalking or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence or stalking.

“Domestic violence” means an act as defined in § 38.2-508 and includes threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law-enforcement officers. Such threat must be a threat of force which would place any person in reasonable apprehension of death or bodily injury.

“Domestic violence programs” means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence or stalking.

“Program participant” means a person certified by the Office of the Attorney General as eligible to participate in the Address Confidentiality Program.

“Stalking” means conduct that is prohibited under § 18.2-60.3, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted for the alleged violation.

B. The Statewide Facilitator for Victims of Domestic Violence shall establish a program to be known as the “Address Confidentiality Program” to protect victims of domestic violence and stalking by authorizing the use of designated addresses for such victims. An individual who is at least 18 years of age, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of an incapacitated person, or an emancipated minor may apply in person, at domestic violence programs that provide services where the role of the services provider is (i) to assist the eligible person in determining whether the address confidentiality program should be part of such person’s overall safety plan; (ii) to explain the address confidentiality program services and limitations; (iii) to explain the program participant’s responsibilities; and (iv) to assist the person eligible for participation with the completion of application materials. The Office of the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if the application contains the following:

1. A sworn statement by the applicant declaring to be true and correct under penalty of perjury that the applicant has good reason to believe that:
  - a. The applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence or stalking;
  - b. The applicant fears further violent acts or acts of stalking from the applicant’s assailant; and
  - c. The applicant is not on active parole or probation supervision requirements under federal, state, or local law.
2. A designation of the Office of the Attorney General as agent for the purpose of receiving mail on behalf of the applicant;
3. The applicant’s actual address to which mail can be forwarded and a telephone number where the applicant can be called;
4. A listing of any minor children residing at the applicant’s actual address, each minor child’s date of birth, and each minor child’s relationship to the applicant; and
5. The signature of the applicant and any person who assisted in the preparation of the application and the date.

C. Upon approval of a completed application, the Office of the Attorney General shall certify the applicant as a program participant. An applicant shall be certified for one year following the date of the approval, unless the certification is withdrawn or invalidated before that date. A program participant may apply to be recertified every year.

D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his designee shall forward the mail to the actual address of the program participant. The actual address of a program participant shall be available only to the Attorney General and to those employees involved in the operation of the Address Confidentiality Program and to law-enforcement officers. A program participant's actual address may be entered into the Virginia Criminal Information Network (VCIN) system so that it may be made known to law-enforcement officers accessing the VCIN system for law-enforcement purposes.

E. The Office of the Attorney General may cancel a program participant's certification if:

1. The program participant requests withdrawal from the program;
2. The program participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order;
3. The program participant changes his residence address and does not provide seven days' notice to the Office of the Attorney General prior to the change of address;
4. The mail forwarded by the Office of the Attorney General to the address provided by the program participant is returned as undeliverable;
5. Any information contained in the application is false;
6. The program participant has been placed on parole or probation while a participant in the address confidentiality program; or
7. The applicant is required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

For purposes of the address confidentiality program, residents of temporary housing for 30 days or less are not eligible to enroll in the address confidentiality program until a permanent residential address is obtained.

The application form shall contain a statement notifying each applicant of the provisions of this subsection.

F. A program participant may request that any state or local agency use the address designated by the Office of the Attorney General as the program participant's address, except when the program participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address designated by the Office of the Attorney General as a program participant's address, unless the agency has received a written exemption from the Office of the Attorney General demonstrating to the satisfaction of the Attorney General that:

1. The agency has a bona fide statutory basis for requiring the program participant to disclose to it the actual location of the program participant; and
2. The disclosed confidential address of the program participant will be used only for that statutory purpose and will not be disclosed or made available in any way to any other person or agency.

A state agency may request an exemption by providing in writing to the Office of the Attorney General identification of the statute or administrative rule that demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual. A request for a waiver from an agency may be for an individual program participant, a class of program participants, or all program participants. The denial of an agency's exemption request shall be in writing and include a statement of the specific reasons for the denial. Acceptance or denial of an agency's exemption request shall constitute final agency action.

Any state or local agency that discloses the program participant's confidential address provided by the Office of the Attorney General shall be immune from civil liability unless the agency acted with gross negligence or willful misconduct.

A program participant's actual address shall be disclosed pursuant to a court order.

G. Records submitted to or provided by the Office of the Attorney General in accordance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) to the extent such records contain information identifying a past or current program participant, including such person's name, actual and designated address, telephone number, and any email address. However, access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of a program participant in cases where the program participant is a minor child or an incapacitated person, except when the parent or legal guardian is named as the program participant's assailant.

H. Neither the Office of the Attorney General, its officers or employees, or others who have a responsibility to a program participant under this section shall have any liability nor shall any cause of action arise against them in their official or personal capacity from the failure of a program participant to receive any first class mail forwarded to him by the Office of the Attorney General pursuant to this section. Nor shall any such liability or cause of action arise from the failure of a program participant to timely receive any first class mail forwarded by the Office of the Attorney General pursuant to this section.

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# WASHINGTON

Washington has enacted the following laws regarding survivors' housing rights:

- Early lease termination. WASH. REV. CODE ANN. §§ 59.18.352, 59.18.575.
- Tenant screening service may not disclose person's status as a victim of domestic violence, sexual assault, or stalking, or previous termination of a lease agreement due to abuse. WASH. REV. CODE ANN. § 59.18.580.
- A landlord may not discriminate against a tenant or applicant based on the tenant's or applicant's status as a victim of domestic violence, sexual assault, or stalking. WASH. REV. CODE ANN. § 59.18.580.
- Unlawful detainer defense. WASH. REV. CODE ANN. § 59.18.580.
- Lock changes. WASH. REV. CODE ANN. § 59.18.585.
- Address confidentiality program. WASH. REV. CODE ANN. §§ 40.24.010-40.24.040.
- Protection orders excluding the respondent from the shared dwelling. WASH. REV. CODE ANN. §§ 26.50.060, 7.92.030, 7.92.100.
- Violation of order excluding abuser from residence is a gross misdemeanor. WASH. REV. CODE ANN. § 26.50.110.
- Confidentiality of information for homeless survivors of domestic violence, dating violence, sexual assault, and stalking. WASH. REV. CODE ANN. § 43.185C.030.

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## **Threatening behavior by tenant--Termination of agreement--Written notice--Financial obligations**

### WASH. REV. CODE ANN. § 59.18.352

If a tenant notifies the landlord that he or she, or another tenant who shares that particular dwelling unit has been threatened by another tenant, and:

(1) The threat was made with a firearm or other deadly weapon as defined in RCW 9A.04.110; and

(2) The tenant who made the threat is arrested as a result of the threatening behavior; and

(3) The landlord fails to file an unlawful detainer action against the tenant who threatened another tenant within seven calendar days after receiving notice of the arrest from a law enforcement agency;

then the tenant who was threatened may terminate the rental agreement and quit the premises upon written notice to the landlord without further obligation under the rental agreement.

A tenant who terminates a rental agreement under this section is discharged from payment of rent for any period following the quitting date, and is entitled to a pro rata refund of any prepaid rent, and shall receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280.

Nothing in this section shall be construed to require a landlord to terminate a rental agreement or file an unlawful detainer action.

.....

**Victim protection--Definitions**

WASH. REV. CODE ANN. § 59.18.570

The definitions in this section apply throughout this section and RCW 59.18.575 through 59.18.585 unless the context clearly requires otherwise.

- (1) "Credit reporting agency" has the same meaning as set forth in RCW 19.182.010(5).
- (2) "Domestic violence" has the same meaning as set forth in RCW 26.50.010.
- (3) "Household member" means a child or adult residing with the tenant other than the perpetrator of domestic violence, stalking, or sexual assault.
- (4) "Landlord" has the same meaning as in RCW 59.18.030 and includes the landlord's employees.
- (5) "Qualified third party" means any of the following people acting in their official capacity:
  - (a) Law enforcement officers;
  - (b) Persons subject to the provisions of chapter 18.120 RCW;
  - (c) Employees of a court of the state;
  - (d) Licensed mental health professionals or other licensed counselors;
  - (e) Employees of crime victim/witness programs as defined in RCW 7.69.020 who are trained advocates for the program; and
  - (f) Members of the clergy as defined in RCW 26.44.020.
- (6) "Sexual assault" has the same meaning as set forth in RCW 70.125.030.

(7) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

(8) "Tenant screening service provider" means any nongovernmental agency that provides, for a fee, background information on prospective tenants to landlords.

(9) "Unlawful harassment" has the same meaning as in RCW 10.14.020 and also includes any request for sexual favors to a tenant or household member in return for a change in or performance of any or all terms of a lease or rental agreement.

.....  
**Victim protection--Notice to landlord--Termination of rental agreement--Procedures**

WASH. REV. CODE ANN. § 59.18.575

(1)(a) If a tenant notifies the landlord in writing that he or she or a household member was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and either (a)(i) or (ii) of this subsection applies, then subsection (2) of this section applies:

(i) The tenant or the household member has a valid order for protection under one or more of the following: Chapter 7.90, 26.50, or 26.26 RCW or RCW 9A.46.040, 9A.46.050, 10.14.080, 10.99.040 (2) or (3), or 26.09.050; or

(ii) The tenant or the household member has reported the domestic violence, sexual assault, unlawful harassment, or stalking to a qualified third party acting in his or her official capacity and the qualified third party has provided the tenant or the household member a written record of the report signed by the qualified third party.

(b) When a copy of a valid order for protection or a written record of a report signed by a qualified third party, as required under (a) of this subsection, is made available to the landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under chapter 59.18 RCW. However, the request to terminate the rental agreement must occur within ninety days of the reported act, event, or circumstance that gave rise to the protective order or report to a qualified third party. A record of the report to a qualified third party that is provided to the tenant or household member shall consist of a document signed and dated by the qualified third party stating: (i) That the tenant or the household member notified him or her that he or she was a victim of an act or acts that constitute a crime of domestic violence, sexual assault, unlawful harassment, or stalking; (ii) the time and date the act or acts occurred; (iii) the location where the act or acts occurred; (iv) a brief description of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking; and (v) that the tenant or household member informed him or her of the name of the alleged perpetrator of the act or acts. The record of the report provided to the tenant or household member shall not include the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The qualified third party shall

keep a copy of the record of the report and shall note on the retained copy the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The record of the report to a qualified third party may be accomplished by completion of a form provided by the qualified third party, in substantially the following form:

.....

[Name of organization, agency, clinic, professional service provider]

I and/or my ..... (household member) am/is a victim of

... domestic violence as defined by RCW 26.50.010.

... sexual assault as defined by RCW 70.125.030.

... stalking as defined by RCW 9A.46.110.

... unlawful harassment as defined by RCW 59.18.570.

Briefly describe the incident of domestic violence, sexual assault, unlawful harassment, or stalking:.....

.....

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s) and at the following location(s): .....

The incident(s) that I rely on in support of this declaration were committed by the following person(s): .....

.....

I state under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. Dated at ..... (city) ..., Washington, this ... day of ..., 20....

.....

Signature of Tenant or

Household Member

I verify that I have provided to the person whose signature appears above the statutes cited in RCW 59.18.575 and that the individual was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and that the individual informed me of the name of the alleged perpetrator of the act.

Dated this ... day of ..., 20...

.....

Signature of authorized officer/employee of (Organization, agency, clinic, professional service provider)

(2) A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW 59.18.200(1). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW 59.18.020 and 59.18.280. Other tenants who are parties to the rental agreement, except household members who are the victims of sexual assault, stalking, unlawful harassment, or domestic violence, are not released from their obligations under the rental agreement or other obligations under this chapter.

(3)(a) Notwithstanding any other provision under this section, if a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under this chapter prior to making a copy of a valid order for protection or a written record of a report signed by a qualified third party available to the landlord, provided that:

(i) The tenant must deliver a copy of a valid order for protection or written record of a report signed by a qualified third party to the landlord by mail, fax, or personal delivery by a third party within seven days of quitting the tenant's dwelling unit; and

(ii) A written record of a report signed by the qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator of the act to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW 59.18.570.

(b) A tenant who terminates his or her rental agreement under this subsection is discharged from the payment of rent for any period following the latter of: (i) The date the tenant vacates the unit; or (ii) the date the record of the report of the qualified third party and the written notice that the tenant has vacated are delivered to the landlord by mail, fax, or personal delivery by a third party. The tenant is entitled to a pro rata refund of any prepaid rent and must receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280.

(4) If a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may change or add locks to the tenant's dwelling unit at the tenant's expense. If a tenant exercises his or her rights to change or add locks, the following rules apply:

(a) Within seven days of changing or adding locks, the tenant must deliver to the landlord by mail, fax, or personal delivery by a third party: (i) Written notice that the tenant has changed or added locks; and (ii) a copy of a valid order for protection or a written record of a report signed by a qualified third party. A written record of a report signed by a qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW 59.18.570.

(b) After the tenant provides notice to the landlord that the tenant has changed or added locks, the tenant's rental agreement shall terminate on the ninetieth day after providing such notice, unless:

(i) Within sixty days of providing notice that the tenant has changed or added locks, the tenant notifies the landlord in writing that the tenant does not wish to terminate his or her rental agreement. If the perpetrator has been identified by the qualified third party and is no longer an employee or agent of the landlord or owner and does not reside at the property, the tenant shall provide the owner or owner's designated agent with a copy of the key to the new locks at the same time as providing notice that the tenant does not wish to terminate his or her rental agreement. A tenant who has a valid protection, antiharassment, or other protective order against the owner of the premises or against an employee or agent of the landlord or owner is not required to provide a key to the new locks until the protective order expires or the tenant vacates; or

(ii) The tenant exercises his or her rights to terminate the rental agreement under subsection (3) of this section within sixty days of providing notice that the tenant has changed or added locks.

(c) After a landlord receives notice that a tenant has changed or added locks to his or her dwelling unit under (a) of this subsection, the landlord may not enter the tenant's dwelling unit except as follows:

(i) In the case of an emergency, the landlord may enter the unit if accompanied by a law enforcement or fire official acting in his or her official capacity. If the landlord reasonably concludes that the circumstances require immediate entry into the unit, the landlord may, after notifying emergency services, use such force as necessary to enter the unit if the tenant is not present; or

(ii) The landlord complies with the requirements of RCW 59.18.150 and clearly specifies in writing the time and date that the landlord intends to enter the unit and the purpose for entering the unit. The tenant must make arrangements to permit access by the landlord.

(d) The exercise of rights to change or add locks under this subsection does not discharge the tenant from the payment of rent until the rental agreement is terminated and the tenant vacates the unit.

(e) The tenant may not change any locks to common areas and must make keys for new locks available to other household members.

(f) Upon vacating the dwelling unit, the tenant must deliver the key and all copies of the key to the landlord by mail or personal delivery by a third party.

(5) A tenant's remedies under this section do not preempt any other legal remedy available to the tenant.

(6) The provision of verification of a report under subsection (1)(b) of this section does not waive the confidential or privileged nature of the communication between a victim of domestic violence, sexual assault, or stalking with a qualified third party pursuant to RCW 5.60.060, 70.123.075, or 70.125.065. No record or evidence obtained from such disclosure may be used in any civil, administrative, or criminal proceeding against the victim unless a written waiver of applicable evidentiary privilege is obtained, except that the verification itself, and no other privileged information, under subsection (1)(b) of this section may be used in civil proceedings brought under this section.

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**Victim protection--Limitation on tenant screening service provider disclosures and landlord's rental decisions**

WASH. REV. CODE ANN. § 59.18.580

(1) A tenant screening service provider may not (a) disclose a tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking, or (b) knowingly disclose that a tenant, applicant, or household member has previously terminated a rental agreement under RCW 59.18.575.

(2) A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's or applicant's or a household member's status as a victim of domestic violence, sexual assault, or stalking, or based on the tenant or applicant having terminated a rental agreement under RCW 59.18.575.

(3) A landlord who refuses to enter into a rental agreement in violation of subsection (2) of this section may be liable to the tenant or applicant in a civil action for damages sustained by the

tenant or applicant. The prevailing party may also recover court costs and reasonable attorneys' fees.

(4) It is a defense to an unlawful detainer action under chapter 59.12 RCW that the action to remove the tenant and recover possession of the premises is in violation of subsection (2) of this section.

(5) This section does not prohibit adverse housing decisions based upon other lawful factors within the landlord's knowledge or prohibit volunteer disclosure by an applicant of any victim circumstances.

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**Victim protection--Possession of dwelling unit--Exclusion of others--New lock or key**

WASH. REV. CODE ANN. § 59.18.585

(1) A tenant who has obtained a court order from a court of competent jurisdiction granting him or her possession of a dwelling unit to the exclusion of one or more cotenants may request that a lock be replaced or configured for a new key at the tenant's expense. The landlord shall, if provided a copy of the order, comply with the request and shall not provide copies of the new keys to the tenant restrained or excluded by the court's order. This section does not release a cotenant, other than a household member who is the victim of domestic violence, sexual assault, or stalking, from liability or obligations under the rental agreement.

(2) A landlord who replaces a lock or configures for a new key of a residential housing unit in accordance with subsection (1) of this section shall be held harmless from liability for any damages that result directly from the lock change.

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**Address Confidentiality for Victims of Domestic Violence, Sexual Assault, and Stalking; Findings—Purpose**

WASH. REV. CODE ANN. § 40.24.010

The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, trafficking, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, trafficking, or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, trafficking, or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

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**Address Confidentiality for Victims of Domestic Violence, Sexual Assault, and Stalking; Definitions**

WASH. REV. CODE ANN. § 40.24.020

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) “Address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant under this chapter.
- (2) “Domestic violence” means an act as defined in RCW 10.99.020 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.
- (3) “Program participant” means a person certified as a program participant under RCW 40.24.030.
- (4) “Stalking” means an act defined in RCW 9A.46.110 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.
- (5) “Trafficking” means an act as defined in RCW 9A.40.100 or an act recognized as a severe form of trafficking under 22 U.S.C. Sec. 7102(8) as it existed on June 12, 2008, or such subsequent date as may be provided by the secretary of state by rule, consistent with the purposes of this subsection, regardless of whether the act has been reported to law enforcement.

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**Address confidentiality program—Application—Certification**

WASH. REV. CODE ANN. § 40.24.030

(1)(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, and (b) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), and any family members residing with him or her, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

- (i) A sworn statement, under penalty of perjury, by the applicant that the applicant has good reason to believe (A) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking and that the applicant fears for his or her

safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; or (B) that the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

(ii) If applicable, a sworn statement, under penalty of perjury, by the applicant, that the applicant has reason to believe they are a victim of (A) domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency, or (B) threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

(iii) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(iv) The residential address and any telephone number where the applicant can be contacted by the secretary of state, which shall not be disclosed because disclosure will increase the risk of (A) domestic violence, sexual assault, trafficking, or stalking, or (B) threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

(v) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4) A person who knowingly provides false or incorrect information upon making an application or falsely attests in an application that disclosure of the applicant's address would endanger (a) the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or (b) the safety of any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or any family members residing with him or her, shall be punished under RCW 40.16.030 or other applicable statutes.

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**Relief--Duration--Realignment of designation of parties--Award of costs, service fees, and attorneys' fees**

WASH. REV. CODE ANN. § 26.50.060

(1) Upon notice and after hearing, the court may provide relief as follows:

- (a) Restrain the respondent from committing acts of domestic violence;
- (b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;
- (c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

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**Petition for stalking protection order--Creation—Contents**

WASH. REV. CODE ANN. § 7.92.030

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(5) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

**Relief--Burden of proof--Issuance of protection order--Remedies**

WASH. REV. CODE ANN. § 7.92.100

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(2) The court may provide relief as follows:

- (a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;
- (b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care, workplace, or school of the petitioner's minor children;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

...

**Violation of orders—Penalties**

WASH. REV. CODE ANN. § 26.50.110

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10. 99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

- (i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;
- (ii) A provision excluding the person from a residence, workplace, school, or day care;
- (iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

...

**Washington homeless census or count--Confidentiality--Online information and referral system--Organizational quality management system**

WASH. REV. CODE ANN. § 43.185C.030

The department shall annually conduct a Washington homeless census or count consistent with the requirements of RCW 43.185C.180. The census shall make every effort to count all homeless individuals living outdoors, in shelters, and in transitional housing, coordinated, when reasonably feasible, with already existing homeless census projects including those funded in part by the United States department of housing and urban development under the McKinney-Vento homeless assistance program. The department shall determine, in consultation with local governments, the data to be collected.

All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.

The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim

of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in RCW 70.02.220. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking. Summary data for the provider's facility or program may be substituted.

The Washington homeless census shall be conducted annually on a schedule created by the department. The department shall make summary data by county available to the public each year. This data, and its analysis, shall be included in the department's annual updated homeless housing program strategic plan.

Based on the annual census and provider information from the local government plans, the department shall, by the end of year four, implement an online information and referral system to enable local governments and providers to identify available housing for a homeless person. The department shall work with local governments and their providers to develop a capacity for continuous case management to assist homeless persons.

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# WEST VIRGINIA

West Virginia has enacted the following laws regarding survivors' housing rights:

- Protection orders granting possession of the residence to the petitioner. W. VA. CODE § 48-27-503.
- Address confidentiality program. W. VA. CODE §§ 48-28A-101 – 48-28A-108.

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**Permissive provisions in protective order**

W. VA. CODE § 48-27-503

The terms of a protective order may include:

- (1) Granting possession to the petitioner of the residence or household jointly resided in at the time the abuse occurred;
- (2) Ordering the respondent to refrain from entering or being present in the immediate environs of the residence of the petitioner;

...

- (11) Ordering the respondent to reimburse the petitioner or other person for any expenses incurred as a result of the domestic violence, including, but not limited to, medical expenses, transportation and shelter;

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.....  
**Purpose**

W. VA. CODE § 48-28A-101

The Legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently find it necessary to establish a new address in order to prevent their assailants or probable assailants from finding them. The purpose of this article is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, sexual assault, or stalking; to enable interagency cooperation with the Secretary of State in providing address confidentiality for victims of domestic abuse, sexual assault, or stalking; and to enable state and local agencies to accept an address designated by the Secretary of State by a program participant as a substitute for a residential or mailing address.

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**Definitions**

W. VA. CODE § 48-28A-102

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault or stalking, and who has been designated by the respective agency or nonprofit program, and trained, accepted and registered by the Secretary of State to assist individuals in the completion of program participation applications.
- (2) "Designated address" means the address assigned to a program participant by the Secretary of State pursuant to section one hundred three of this article.
- (3) "Mailing address" means an address that is recognized for delivery by the United States Postal Service.
- (4) "Program" means the Address Confidentiality Program established by this article.
- (5) "Program participant" means a person certified by the Secretary of State to participate in the program.
- (6) "Residential Address" means a residential street, school or work address of an individual, as specified on the individual's application to be a program participant under this article.

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**Address Confidentiality Program**

W. VA. CODE § 48-28A-103

- (a) On or after the effective date of the enactment of this article, the Secretary of State shall create an Address Confidentiality Program to be staffed by full time employees who have been subjected to a criminal history records search.
- (b) Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have a designated address assigned by the Secretary of State.
- (c) The Secretary of State may approve an application only if it is filed with the office of the Secretary of State in the manner established by rule and on a form prescribed by the Secretary of State. A completed application must contain the following information:

- (1) The application preparation date, the applicant's signature and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;
  - (2) A designation of the Secretary of State as agent for purposes of service of process and for receipt of certain first-class mail;
  - (3) The mailing address where the applicant may be contacted by the Secretary of State or a designee and the telephone number or numbers where the applicant may be contacted by the Secretary of State or the Secretary of State's designee; and
  - (4) A residential or mailing address or both types of addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.
- (d) Upon receipt of a properly completed application, the Secretary of State may certify the applicant as a program participant. A program participant is certified for a period of four years following the date of initial certification unless the certification is withdrawn or invalidated before that date. The Secretary of State shall send notification of a lapsing certification and a reapplication form to a program participant at least four weeks prior to the expiration of the program participant's certification.
- (e) The Secretary of State shall forward to the program participant first-class mail received at the program participant's designated address.
- (f)(1) An applicant may not file an application knowing that it:
- (A) Contains false or incorrect information; or
  - (B) Falsely claims that disclosure of either the applicant's residential or mailing address or both types of addresses threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.
- (2) An application assistant may not assist or participate in the filing of an application that the application assistant knows:
- (A) Contains false or incorrect information; or
  - (B) Falsely claims that disclosure of either the applicant's residential or mailing address or both types of addresses threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made.

(g) A person who violates the provisions of subsection (f) of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for a period of not more than one year...

**Use of designated address**

W. VA. CODE, § 48-28A-105

(a) Upon demonstration of a program participant’s certification in the program, state and local agencies and the courts of this state shall accept the designated address as a program participant's address for the purposes of creating a new public record unless the Secretary of State has determined that:

(1) The agency or court has a bona fide statutory or administrative requirement for the use of the program participant's residential or mailing address, such that the agency or court is unable to fulfill its statutory duties and obligations without the program participant's residential or mailing address; and

(2) The program participant’s residential or mailing address will be used only for those statutory and administrative purposes, and shall be kept confidential, subject to the confidentiality provisions of section one hundred eight of this article.

(b) Notwithstanding the provisions of subsection (a) and upon the request of the Secretary of State, the Division of Motor Vehicles shall use the designated address for the purposes of issuing a driver's license or identification card: *Provided*, That the division of motor vehicles shall not be prohibited from collecting and retaining a program participant's residential or mailing address or both addresses to be used only for statutory and administrative purposes. Any residential or mailing address of a program participant collected and retained pursuant to this subsection shall be kept confidential, subject to the provisions of section one hundred eight of this article.

(c) A designated address may be a post office box and may be used by a participant for voter registration purposes, as long as the Secretary of State has on file for the participant a residential and mailing address, as provided in section one hundred three of this article...

**Confidentiality**

W. VA. CODE, § 48-28A-108

A program participant’s application and supporting materials are not a public record and shall be kept confidential by the Secretary of State. Any employee of any agency or court who willfully breaches the confidentiality of these records or willfully discloses the name, residential or mailing address both or addresses of a program participant in violation of the provisions of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred dollars nor more than one thousand dollars or confined in jail not more than one year, or both fined and confined.

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# WISCONSIN

Wisconsin has enacted the following laws regarding survivors' housing rights:

- Provisions prohibiting housing discrimination against victims of domestic abuse, sexual assault, or stalking. WIS. STAT. ANN. § 106.50.
- Eviction defense for victims of domestic abuse, sexual abuse, or stalking. WIS. STAT. ANN. § 106.50.
- Rental agreement must provide notice of domestic abuse protections. WIS. STAT. ANN. § 704.14.
- Early lease termination. WIS. STAT. ANN. § 704.16.
- A landlord may terminate the tenancy of an offending tenant if the offending tenant commits acts that cause another tenant who occupies a dwelling unit in the same rental unit or apartment complex as the offending tenant to face an imminent threat of serious physical harm. WIS. STAT. ANN. § 704.16.
- Lock changes. WIS. STAT. ANN. § 704.16.
- Rental agreement may not allow landlord to take adverse action because a tenant has contacted law enforcement or because of commission of a crime. WIS. STAT. ANN. § 704.44.
- Fees for calling the police. WIS. STAT. ANN. § 66.0627(7).
- Protection orders and injunctions directing the respondent to avoid the petitioner's residence. WIS. STAT. ANN. § 813.12.
- Confidentiality. WIS. STAT. ANN. §§ 995.67, 6.47.

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## **Open housing**

### WIS. STAT. ANN. § 106.50

(1) Intent. It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry and it is the duty of the political subdivisions to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under ss. 66.0125 and 66.1011. The legislature hereby extends the state law governing equal housing opportunities to cover single-family residences that are owner-occupied. The legislature finds

that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated. This section shall be considered an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity, and human rights of the people of this state.

(1m) Definitions. In this section:

...

(h) “Discriminate” means to segregate, separate, exclude, or treat a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r) because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry.

...

(nm) “Member of a protected class” means a group of natural persons, or a natural person, who may be categorized because of sex, race, color, disability, sexual orientation, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual abuse, or stalking, lawful source of income, age, or ancestry.

...

(u) “Status as a victim of domestic abuse, sexual assault, or stalking” means the status of a person who is seeking to rent or purchase housing or of a member or prospective member of the person’s household having been, or being believed by the lessor or seller of housing to be, a victim of domestic abuse, as defined in s. 813.12(1)(am), sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32.

...

**(2) Discrimination prohibited.** It is unlawful for any person to discriminate:

- (a) By refusing to sell, rent, finance or contract to construct housing or by refusing to negotiate or discuss the terms thereof.
- (b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.
- (c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

- (d) By advertising in a manner that indicates discrimination by a preference or limitation.
- (e) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to, a contract of insurance against hazards to a dwelling.
- (f) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.
- (g) In providing the privileges, services or facilities that are available in connection with housing.
- (h) By falsely representing that housing is unavailable for inspection, rental or sale.
- (i) By denying access to, or membership or participation in, a multiple listing service or other real estate service.
- (j) By coercing, intimidating, threatening or interfering with a person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, a right granted or protected under this section, or with a person who has aided or encouraged another person in the exercise or enjoyment of a right granted or protected under this section.
- (k) In making available any of the following transactions, or in the terms or conditions of such transactions for a person whose business includes engaging in residential real estate-related transactions:
  1. The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing or maintaining housing or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.
  2. Selling, brokering or appraising residential real property.
- (l) By otherwise making unavailable or denying housing.

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**(5m) Exemptions and exclusions.**

...

- (d) Nothing in this section requires that housing be made available to an individual whose tenancy would constitute a direct threat to the safety of other tenants or persons employed on the property or whose tenancy would result in substantial physical damage to the property of others, if the risk of direct threat or damage cannot be eliminated or sufficiently reduced through reasonable accommodations. A claim that an individual's

tenancy poses a direct threat or a substantial risk of harm or damage must be evidenced by behavior by the individual that caused harm or damage, that directly threatened harm or damage, or that caused a reasonable fear of harm or damage to other tenants, persons employed on the property, or the property. No claim that an individual's tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property may be based on the tenant's status as a victim of domestic abuse, sexual assault, or stalking.

(dm) It is not discrimination based on status as a victim of domestic abuse, sexual abuse, or stalking for a landlord to bring an action for eviction of a tenant based on a violation of the rental agreement or of a statute that entitles the landlord to possession of the premises, unless subd. 1. or 2. applies. A tenant has a defense to an action for eviction brought by a landlord if the tenant proves by a preponderance of the evidence that the landlord knew or should have known any of the following:

1. That the tenant is a victim of domestic abuse, sexual abuse, or stalking and that the basis for the action for eviction is conduct that related to the commission of domestic abuse, sexual abuse, or stalking by a person who was not the invited guest of the tenant.
2. That the tenant is a victim of domestic abuse, sexual assault, or stalking, that the basis for the action for eviction is conduct that related to the commission of domestic abuse, sexual assault, or stalking by a person who was the invited guest of the tenant, and that the tenant has done one of the following:
  - a. Sought an injunction under s. 813.12, 813.122, 813.123, or 813.125 enjoining the person from appearing on the premises.
  - b. Upon receiving notice under s. 704.17, provided a written statement to the landlord indicating that the person will no longer be an invited guest of the tenant and has not subsequently invited the person to be a guest of the tenant.

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**Notice of domestic abuse protections**

WIS. STAT. ANN. § 704.14

A residential rental agreement shall include the following notice in the agreement or in an addendum to the agreement:

NOTICE OF DOMESTIC ABUSE PROTECTIONS

(1) As provided in section 106.50(5m)(dm) of the Wisconsin statutes, a tenant has a defense to an eviction action if the tenant can prove that the landlord knew, or should have known, the tenant is a victim of domestic abuse, sexual assault, or stalking and that the eviction action is based on conduct related to domestic abuse, sexual assault, or stalking committed by either of the following:

- (a) A person who was not the tenant’s invited guest.
- (b) A person who was the tenant's invited guest, but the tenant has done either of the following:
  1. Sought an injunction barring the person from the premises.
  2. Provided a written statement to the landlord stating that the person will no longer be an invited guest of the tenant and the tenant has not subsequently invited the person to be the tenant’s guest.

(2) A tenant who is a victim of domestic abuse, sexual assault, or stalking may have the right to terminate the rental agreement in certain limited situations, as provided in section 704.16 of the Wisconsin statutes. If the tenant has safety concerns, the tenant should contact a local victim service provider or law enforcement agency.

(3) A tenant is advised that this notice is only a summary of the tenant's rights and the specific language of the statutes governs in all instances.

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**Termination of tenancy for imminent threat of serious physical harm; changing locks**

WIS. STAT. ANN. § 704.16

(1) Terminating tenancy by tenant. A residential tenant may terminate his or her tenancy and remove from the premises if both of the following apply:

- (a) The tenant or a child of the tenant faces an imminent threat of serious physical harm from another person if the tenant remains on the premises.
- (b) The tenant provides the landlord with notice in the manner provided under s. 704.21 and with a certified copy of any of the following:
  1. An injunction order under s. 813.12(4) protecting the tenant from the person.
  2. An injunction order under s. 813.122 protecting a child of the tenant from the person.

3. An injunction order under s. 813.125(4) protecting the tenant or a child of the tenant from the person, based on the person's engaging in an act that would constitute sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32, or attempting or threatening to do the same.
4. A condition of release under ch. 969 ordering the person not to contact the tenant.
5. A criminal complaint alleging that the person sexually assaulted the tenant or a child of the tenant under s. 940.225, 948.02, or 948.025.
6. A criminal complaint alleging that the person stalked the tenant or a child of the tenant under s. 940.32.
7. A criminal complaint that was filed against the person as a result of the person being arrested for committing a domestic abuse offense against the tenant under s. 968.075.

(2) Not liable for rent. If a residential tenant removes from the premises because of a threat of serious physical harm to the tenant or to a child of the tenant from another person and provides the landlord with a certified copy specified under sub. (1) and with notice that complies with s. 704.21, the tenant shall not be liable for any rent after the end of the month following the month in which he or she provides the notice or removes from the premises, whichever is later. The tenant's liability for rent under this subsection is subject to the landlord's duty to mitigate damages as provided in s. 704.29(2).

(3) Termination of tenancy by landlord.

(a) In this subsection:

1. "Community" has the meaning given in s. 710.15(1)(ad).
2. "Manufactured home" has the meaning given in s. 101.91(2).
3. "Mobile home" has the meaning given in s. 710.15(1)(b).
4. "Offending tenant" is a tenant whose tenancy is being terminated under this subsection.

(b) A landlord may terminate the tenancy of an offending tenant if all of the following apply:

1. The offending tenant commits one or more acts, including verbal threats, that cause another tenant, or a child of that other tenant, who occupies a dwelling unit in the same single-family rental unit, multiunit dwelling, or apartment complex, or

a manufactured home or mobile home in the same community, as the offending tenant to face an imminent threat of serious physical harm from the offending tenant if the offending tenant remains on the premises.

2. The offending tenant is the named offender in any of the following:

a. An injunction order under s. 813.12(4) protecting the other tenant from the offending tenant.

b. An injunction order under s. 813.122 protecting the child of the other tenant from the offending tenant.

c. An injunction order under s. 813.125(4) protecting the other tenant or the child of the other tenant from the offending tenant, based on the offending tenant's engaging in an act that would constitute sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s. 940.32, or attempting or threatening to do the same.

d. A condition of release under ch. 969 ordering the offending tenant not to contact the other tenant.

e. A criminal complaint alleging that the offending tenant sexually assaulted the other tenant or the child of the other tenant under s. 940.225, 948.02, or 948.025.

f. A criminal complaint alleging that the offending tenant stalked the other tenant or the child of the other tenant under s. 940.32.

g. A criminal complaint that was filed against the offending tenant as a result of the offending tenant being arrested for committing a domestic abuse offense against the other tenant under s. 968.075.

3. The landlord gives the offending tenant written notice that complies with s. 704.21 requiring the offending tenant to vacate on or before a date that is at least 5 days after the giving of the notice. The notice shall state the basis for its issuance and the right of the offending tenant to contest the termination of tenancy in an eviction action under ch. 799. If the offending tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the landlord by the greater preponderance of the credible evidence of the allegations against the offending tenant.

(4) Changing locks.

(a) Subject to pars. (b) and (c), regardless of whether sub. (1) applies, at the request of a residential tenant who provides the landlord with a certified copy of a document specified in sub. (1)(b)1. to 7., a landlord shall change the locks to the tenant's premises.

(b) A landlord shall have the locks changed, or may give the tenant permission to change the locks, within 48 hours after receiving a request and certified copy under par. (a). The tenant shall be responsible for the cost of changing the locks. If the landlord gives the tenant permission to change the locks, within a reasonable time after any lock has been changed the tenant shall provide the landlord with a key for the changed lock.

(c)1. If the person who is the subject of the document provided to the landlord under par. (a) is also a tenant of the specific premises for which the locks are requested to be changed, the landlord is not required to change the locks under this subsection unless the document provided by the tenant requesting that the locks be changed is any of the following:

a. A document specified in sub. (1)(b)1., 2., or 3. that directs the tenant who is the subject of the document to avoid the residence of the tenant requesting that the locks be changed.

b. A document specified in sub. (1)(b)4. that orders the tenant who is the subject of the document not to contact the tenant requesting that the locks be changed.

2. Nothing in this subsection shall be construed to relieve a tenant who is the subject of the document provided to the landlord under par. (a) from any obligation under a rental agreement or any other liability to the landlord.

(d) A landlord is not liable for civil damages for any action taken to comply with this subsection.

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**Residential rental agreement that contains certain provisions is void**

WIS. STAT. ANN. § 704.44

Notwithstanding s. 704.02, a residential rental agreement is void and unenforceable if it does any of the following:

(1m) Allows a landlord to do any of the following because a tenant has contacted an entity for law enforcement services, health services, or safety services:

(a) Increase rent.

(b) Decrease services.

(c) Bring an action for possession of the premises.

(d) Refuse to renew a rental agreement.

(e) Threaten to take any action under pars. (a) to (d).

...

(9) Allows the landlord to terminate the tenancy of a tenant based solely on the commission of a crime in or on the rental property if the tenant, or someone who lawfully resides with the tenant, is the victim, as defined in s. 950.02(4), of that crime.

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**Special charges for current services and energy and water efficiency improvement loans**

WIS. STAT. ANN. § 66.0627(7)

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(7) Notwithstanding sub. (2), no political subdivision may enact an ordinance, or enforce an existing ordinance, that imposes a fee on the owner or occupant of property for a call for assistance that is made by the owner or occupant requesting law enforcement services that relate to any of the following:

- (a) Domestic abuse, as defined in s. 813.12(1)(am).
- (b) Sexual assault, as described under ss. 940.225, 948.02, and 948.025.
- (c) Stalking, as described in s. 940.32.

.....  
**Domestic abuse services; prohibited disclosures**

WIS. STAT. ANN. § 995.67

(1) In this section:

- (a) “Domestic abuse” has the meaning given in s. 49.165(1)(a).
- (b) “Domestic abuse services organization” means a nonprofit organization or a public agency that provides any of the following services for victims of domestic abuse:
  1. Shelter facilities or private home shelter care.
  2. Advocacy and counseling.
  3. A 24-hour telephone service.
- (c) “Service recipient” means any person who receives or has received domestic abuse services from a domestic abuse services organization.

(2)(a) No employee or agent of a domestic abuse services organization who provides domestic abuse services to a service recipient may intentionally disclose to any person the location of any of the following persons without the informed, written consent of the service recipient:

1. The service recipient.
2. Any minor child of the service recipient.
3. Any minor child in the care or custody of the service recipient.
4. Any minor child who accompanies the service recipient when the service recipient receives domestic abuse services.

(b) Any person who violates this subsection may be fined not more than \$500 or imprisoned for not more than 30 days or both.

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**Domestic abuse restraining orders and injunctions**

WIS. STAT. ANN. § 813.12

(3) Temporary restraining order. (a) A judge or circuit court commissioner shall issue a temporary restraining order ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any other location temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents in writing, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, or any combination of these remedies requested in the petition, or any other appropriate remedy not inconsistent with the remedies requested in the petition, if all of the following occur:

...

(am) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

...

(4) Injunction. (a) A judge or circuit court commissioner may grant an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the

petitioner's residence, except as provided in par. (am), or any other location temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents to that contact in writing, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, or any combination of these remedies requested in the petition, or any other appropriate remedy not inconsistent with the remedies requested in the petition, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5)(a).
2. The petitioner serves upon the respondent a copy or summary of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.
3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

...

(am) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par.

(a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

...

(c)1. An injunction under this subsection is effective according to its terms, for the period of time that the petitioner requests, but not more than 4 years, except as provided in par.

(d). An injunction granted under this subsection is not voided if the petitioner allows or initiates contact with the respondent or by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid.

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(5m) Confidentiality of victim's address. The petition under sub. (5) and the court order under sub. (3) , (4), or (4g) may not disclose the address of the alleged victim. The petitioner shall provide the clerk of circuit court with the petitioner's address when he or she files a petition under this section. The clerk shall maintain the petitioner's address in a confidential manner.

(6) Enforcement assistance. (a) If an order is issued under this section, upon request by the petitioner the court or circuit court commissioner shall order the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence.

(ag)1. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. If the petitioner elects service by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. The clerk shall maintain the form provided under this subdivision in a confidential manner.

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**Confidentiality of information relating to victims of domestic abuse, sexual assault, or stalking**

WIS. STAT. ANN. § 6.47

(1) In this section:

(ag) “Domestic abuse victim service provider” means an organization that is certified by the department of children and families as eligible to receive grants under s. 49.165(2) and whose name is included on the list provided by the commission under s. 7.08(10).

(am) “Eligible individual” means:

1. An individual who has been granted a protective order that is in effect.
2. An individual who files an affidavit with the municipal clerk of the municipality where the individual resides, on a form prescribed by the commission, that is signed by a sheriff, the chief of a police department, or a district attorney or the authorized representative of a sheriff, chief, or district attorney and directed to the municipal clerk, and that verifies that a person has been charged with or convicted of an offense relating to domestic abuse, sexual assault, or stalking in which the individual was a victim and reasonably continues to be threatened by that person.
3. An individual who resides in a shelter.
4. An individual who submits a dated statement to the municipal clerk that includes the individual's full name, that is signed by an authorized representative of a domestic abuse victim service provider or a sexual assault victim service provider, and that indicates that the individual received services from the provider within the 24-month period ending on the date of the statement.

(b) “Offense relating to domestic abuse, sexual assault, or stalking” means an offense specified in s. 940.19, 940.20(1m), 940.201, 940.22, 940.225, 940.235, 940.32, 947.013, 948.02, 948.025, 948.06, 948.085, 948.09, or 948.095.

(c) “Protected individual” means an individual whose name and address is confidential under sub. (2).

(d) “Protective order” means a temporary restraining order or an injunction issued under s. 813.12 or 813.125.

(dm) “Sexual assault victim service provider” means an organization that is certified by the department of justice as eligible to receive grants under s. 165.93(2) and whose name is included on the list provided by the commission under s. 7.08(10).

(e) “Shelter” means a place where at least 4 unrelated individuals reside that provides residential shelter to individuals whose personal security is or may be threatened by family members or other persons with whom the individuals have had contact.

(2) Except as authorized in sub. (8), the commission, each municipal clerk, each agent designated under s. 6.33(5)(b), and each election official shall withhold from public inspection under s. 19.35(1) the name and address of any eligible individual whose name appears on a poll list or registration list if the individual provides the municipal clerk with a valid written request to protect the individual's confidentiality. To be valid, a request under this subsection must be accompanied by a copy of a protective order that is in effect, an affidavit under sub. (1)(am)2. that is dated within 30 days of the date of the request, a statement signed by the operator or an authorized agent of the operator of a shelter that is dated within 30 days of the date of the request and that indicates that the operator operates the shelter and that the individual making the request resides in the shelter, or a statement signed by an authorized representative of a domestic abuse victim service provider or a sexual assault victim service provider under sub. (1)(am)4. that is dated within 30 days of the date of the request. A physically disabled individual who appears personally at the office of the municipal clerk accompanied by another elector of this state may designate that elector to make a request under this subsection on his or her behalf.

(3) Upon receiving a valid written request from an elector under sub. (2), the municipal clerk shall issue to the elector a voting identification card on a form prescribed by the commission that shall contain the name of the elector's municipality of residence and, in the case of a town, the county in which the town is located, the elector's name, the ward in which the elector resides, if any, and a unique identification serial number issued by the commission. The number issued to an elector under this subsection shall not be changed for so long as the elector continues to qualify for a listing under sub. (2).

(4) Except as provided in sub. (5), a confidential listing under sub. (2) expires on the date that a protective order expires, the date that the protected individual ceases to reside in a shelter, the date that updated information is received from a sheriff, the chief of a police department, or a district attorney or the authorized representative of a sheriff, chief, or district attorney, or at the

end of the 24-month period that follows creation or renewal of the listing under sub. (2), whichever is earlier.

(5)

(a) The municipal clerk shall cancel a confidential listing under sub. (2) if:

1. The clerk receives notification from a sheriff, chief of police, or district attorney or the authorized representative of a sheriff, chief, or district attorney under sub. (10).
2. The name of the protected individual is legally changed.
3. The protected individual changes his or her address without notifying the municipal clerk.
4. The municipal clerk finds that the protected individual provided false information to the clerk for the purpose of obtaining a confidential listing under sub. (2).

(b) An individual whose confidential listing is canceled under par. (a) may file a new request and qualify under sub. (2) to obtain a renewal of the listing.

(6) Upon expiration of a confidential listing on a registration list under sub. (2), the municipal clerk shall change the registration of the protected individual to ineligible status unless the individual files a new request and qualifies under sub. (2) to obtain a renewal of the listing or unless the individual applies for and qualifies to obtain a nonconfidential voter registration. Except as authorized in sub. (8), the municipal clerk shall withhold from public inspection under s. 19.35(1) the name and address of any individual whose registration is changed under this subsection if the individual qualified for a confidential listing at the time of that listing.

(7)

(a) If the municipal clerk has notice that a confidential listing under sub. (2) is scheduled to expire, the municipal clerk shall provide 30 days' notice to the protected individual of the scheduled expiration of the listing.

(b) If notice to a protected individual is not provided under par. (a), the municipal clerk shall provide notice to the subject individual upon changing a listed individual to ineligible status under sub. (6).

(8) The municipal clerk shall provide access to a name and address under sub. (2):

- (a) To a law enforcement officer for official purposes.
- (b) To a state or local governmental officer pursuant to a specific law that necessitates obtaining the name or address.
- (c) Pursuant to a court order citing a reason that access to the name or address should be provided.
- (e) At the request of a protected individual, for purposes of permitting that individual to sign a petition under s. 59.05(2).

(9) No person who obtains access to a name or address under sub. (8) may disclose the name or address to any person other than a public employee for the same purpose for which the information was obtained.

(10) If a sheriff, chief of a police department, or district attorney has signed or the authorized representative of a sheriff, chief, or district attorney has signed an affidavit under sub. (1)(am)2. and the sheriff, chief, district attorney or authorized representative later obtains information that the person who was charged with an offense relating to domestic abuse, sexual assault, or stalking is no longer so charged or that the person's judgment of conviction has been vacated, and the charge or conviction was the sole basis for the affidavit, the sheriff, chief, district attorney or authorized representative shall provide written notice of that information to the municipal clerk to whom the affidavit was directed.

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# WYOMING

Wyoming has enacted the following law regarding survivors' housing rights:

- Early lease termination by the victim. WYO. STAT. ANN. §§ 1-21-1301; 1-21-1302; 1-21-1303; 1-21-1304.
- A petitioner for a protection order may be granted sole possession of the residence; a restrained party may be ordered to provide alternative housing for the petitioner. WYO. STAT. ANN. § 35-21-105.
- Confidentiality of information. WYO. STAT. ANN. §§ 35-21-112; 14-3-441; 1-25-101; 1-25-103.

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## Short title

WYO. STAT. ANN. § 1-21-1301

This act shall be known and may be cited as the “Wyoming Safe Homes Act.”

## Definitions

WYO. STAT. ANN. § 1-21-1302

(a) As used in this act:

- (i) “Domestic abuse” means as defined in W.S. 35-21-102(a)(iii);
- (ii) “Landlord” means the owner of a building or the owner’s agent with regard to matters concerning the landlord’s renting or leasing of a dwelling;
- (iii) “Sexual violence” means any act of sexual assault, sexual abuse or stalking of an adult or minor, including any nonconsensual sexual contact or intrusion as those terms are defined in the Wyoming Criminal Code;
- (iv) “Tenant” means a person who has entered into an oral or written lease with a landlord whereby the person is the lessee under the lease;
- (v) “This act” means W.S. 1–21–1301 through 1–21–1304.

**Breach of lease; recovery of rent; affirmative defense.**WYO. STAT. ANN. § 1-21-1303

(a) In any action brought by a landlord against a tenant to recover rent for breach of lease, the tenant shall have an affirmative defense and not be liable for rent for the period after which a tenant vacates the premises owned by the landlord and covered by the lease, if by a preponderance of the evidence, the court finds that:

(i) At the time the tenant vacated the premises, the tenant or a member of the tenant's household was under a credible imminent threat of domestic abuse or sexual violence at the premises, as demonstrated by medical, court or police evidence of domestic abuse or sexual violence; and

(ii) The tenant gave seven (7) days written notice to the landlord prior to vacating the premises stating that the reason for vacating the premises was because of a credible imminent threat of domestic abuse or sexual violence against the tenant or a member of the tenant's household.

(b) In any action brought by a landlord against a tenant to recover rent for breach of lease, the tenant shall have an affirmative defense and not be liable for rent for the period after which a tenant vacates the premises owned by the landlord and covered by the lease, if by a preponderance of the evidence, the court finds that:

(i) The tenant or a member of the tenant's household was a victim of domestic abuse or sexual violence on the premises that are owned or controlled by the landlord and the tenant has vacated the premises as a result of the sexual violence;

(ii) The tenant gave seven (7) days written notice to the landlord prior to vacating the premises stating that the reason for vacating the premises was because of the domestic abuse or sexual violence against the tenant or a member of the domestic abuse or tenant's household, the date of the sexual violence, and that the tenant provided medical, court or police evidence of domestic abuse or sexual violence to the landlord supporting the claim of domestic abuse or sexual violence; and

(iii) The domestic abuse or sexual violence occurred not more than sixty (60) days prior to the date of giving the written notice to the landlord, or if circumstances are such that the tenant could not reasonably give notice within that time period because of reasons related to the domestic abuse or sexual violence, including, but not limited to, hospitalization or seeking assistance for shelter or counseling, then as soon thereafter as practicable.

(c) A landlord may not terminate a tenancy based solely on the tenant's or applicant's or a household member's status as a victim of domestic abuse or sexual violence. This subsection does not prohibit adverse housing decisions based upon other lawful factors within the landlord's knowledge.

(d) Nothing in this act shall be construed to be a defense against:

(i) An action for recovery of rent for the period of time before the tenant vacated the landlord’s premises and gave notice to the landlord as required in this section; or

(ii) Forcible entry and detainer for failure to pay rent before the tenant gave notice to the landlord as required in this section and vacated the premises.

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**Prohibition of waiver or modification**

WYO. STAT. ANN. § 1-21-1304

The provisions of this act shall not be waived or modified in any lease or separate agreement between a landlord and tenant.

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**Order of protection; contents; remedies; order not to affect title to property; conditions**

WYO. STAT. ANN. § 35-21-105

(a) Upon finding that an act of domestic abuse has occurred, the court shall enter an order of protection ordering the respondent household member to refrain from abusing the petitioner or any other household member. The order shall specifically describe the behavior that the court has ordered the respondent to do or refrain from doing. As a part of any order of protection, the court may:

(i) Grant sole possession of the residence or household to the petitioner during the period the order of protection is effective or order the respondent to provide temporary suitable alternative housing for petitioner and any children to whom the respondent owes a legal obligation of support;

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.....  
**Confidentiality in court proceedings**

WYO. STAT. ANN. § 35-21-112

(a) Notwithstanding any other provisions of law, in any proceedings before a court of the state of Wyoming, the confidentiality of the address, city and state of residence or any other information identifying the residence of a victim of domestic abuse shall remain confidential as provided in this section.

(b) The victim of domestic abuse may at any point during the court proceedings file a motion with the court for entry of an order providing for the confidentiality of the address, city and state of residence or any other information identifying the residence of the victim of domestic abuse

and any children residing with the victim of domestic abuse during the court proceedings. The motion may be accompanied with all relevant affidavits or documents to establish that the person requesting confidentiality is a victim of domestic abuse and that the person may be subject to additional acts of domestic abuse if confidentiality is not maintained.

(c) Upon a filing of a motion pursuant to subsection (b) of this section, the court shall issue an order prohibiting the release of the address, city and state of residence and any other information identifying the residence of a person if:

(i) The person filing the motion has been granted an order of protection under this act or similar act in another state or territory of the United States and the order of protection remains in effect; or

(ii) The court finds by a preponderance of the evidence that the person is a victim of domestic abuse and that the person may be subject to additional acts of domestic abuse if confidentiality is not maintained.

(d) An order issued under this section shall only provide confidentiality in the action in which it is granted and for those additional purposes specified by law referencing an order issued pursuant to this section.

### **Confidentiality in court proceedings**

#### WYO. STAT. ANN. § 14-3-441

In the event a confidentiality order has been entered pursuant to W.S. 35-21-112 or any other court order allowing a party to maintain confidentiality of addresses or other information identifying the residence of the victim of domestic abuse, the address and city or state of residence and other information identifying the residence of the victim of domestic abuse and any child residing with the victim of domestic abuse shall remain confidential in any court proceedings under this title.

### **Verified petition to be presented; information to be shown in petition; order of court making change; record to be made**

#### WYO. STAT. ANN. 1-25-101

Every person desiring to change his name may petition the district court of the county of the petitioner's residence for the desired change. The petition shall be verified by affidavit setting forth the petitioner's full name, the name desired, a concise statement of the reason for the desired change, the place of his birth, his place of residence and the length of time he has been an actual bona fide resident of the county in which the petition is filed. If the court is satisfied that the desired change is proper and not detrimental to the interests of any other person, it shall order the change to be made, and record the proceedings in the records of the court. In the event a confidentiality order has been entered pursuant to W.S. 35-21-112 or any other court order allowing a party to maintain confidentiality of addresses, city or state of residence or other

information identifying the residence, the address, city or state of residence or other information identifying the residence of the party shall remain confidential.

**Notice to be given by publication**

WYO. STAT. ANN. 1-25-103

Except in a proceeding in which the court has issued a confidentiality order pursuant to W.S. 35-21-112 or any other court order allowing a party to maintain confidentiality of addresses, city or state of residence or other information identifying the residence of the party, public notice of the petition for a change of name shall be given in the same manner as service by publication upon nonresidents in civil actions.

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