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# NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

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## *The impact of the Violence Against Women Act 2005 (VAWA) on the housing rights and options of survivors of domestic and sexual violence*

### **The Problem and a Remedy**

Domestic violence is a leading cause of homelessness nationally. Among cities surveyed in 2005, 50% identified domestic violence as a primary cause of local homelessness.<sup>i</sup> In varying regions, between 22% and 57% of homeless women report that domestic violence was the immediate cause of their homelessness.<sup>ii</sup> Ninety-two percent (92%) of homeless women have experienced severe physical or sexual abuse at some point in their lives,<sup>iii</sup> and 63% have been victims of domestic violence as adults.<sup>iv</sup> Currently, 38% of domestic violence victims become homeless at some point in their lives.<sup>v</sup>

Some victims and their children lose their homes when they flee abuse. Other domestic violence survivors become homeless after being evicted, or after being denied housing as a result of the violence against them.<sup>vi</sup>

Exacerbating this crisis is the severe shortage of affordable housing for low-income individuals and families. Over five million households have “worst case” housing needs: living in substandard housing, doubled-up, or paying over one-half of their income for rent, according to a 2003 federal report.<sup>vii</sup> Federal housing assistance programs, including public housing, housing subsidy programs, transitional and supportive housing, and emergency shelter programs, are all under-funded, under increasing attack, and insufficient to meet the rapidly growing need.

For an individual who is in a violent relationship and already living in poverty, this harsh reality often means that she must choose between life with her abuser or life on the streets.

Out of a recognition of these problems, Congress and the President have agreed to remedy these barriers in federal law for the first time. Signed into law on January 5, 2006, VAWA 2005 (Pub. L. 109-162, 119 Stat. 2960) includes important new housing legal protections and programs for victims of domestic violence, dating violence, sexual assault, and stalking.

### **Amendments to Federal Housing Programs**

Title VI of VAWA acknowledges the unfortunate and disturbing reality that even in 2005 – over ten years after VAWA’s original enactment – many victims of domestic violence across the nation who seek or obtain civil protection orders against their abusers, who summon police in response to domestic violence, or who take other protective measures that VAWA encourages are in fact punished for doing so with the loss of their federal housing.

VAWA amended the Public Housing Program, the Section 8 Housing Choice Voucher Program, and Project-Based Section 8 to ensure that victims of domestic violence, dating violence, and stalking and

their families are not wrongfully evicted from or denied housing because of the violence committed against them. *See* §§ 606, 607, Pub. L. 109-162, 119 Stat. 2960 (January 5, 2006); 42 U.S.C. § 1437d, as amended; 42 U.S.C. § 1437f(o), as amended; 42 U.S.C. §§ 1437f(c), (d), as amended.

Denial of housing prohibited. These housing statutes now provide that an individual's status as a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of admission or denial of housing assistance.

Eviction for criminal activity prohibited. The statute establishes an exception to the federal "one-strike" criminal activity eviction rule for tenants who are victims. VAWA explicitly provides that an incident of actual or threatened domestic violence, dating violence, or stalking does not qualify as a serious or repeated violation of the lease or good cause for terminating the assistance, tenancy, or occupancy rights of the victim. VAWA also provides that criminal activity directly relating to domestic violence, dating violence, or stalking does not constitute grounds for terminating a tenancy.

Definitions; court orders; leases. The amendments follow the federal definitions of domestic violence, dating violence, and stalking as the terms have been defined in VAWA. They also seek to ensure that public housing agencies (PHAs) and Section 8 landlords honor civil protection orders and other court orders from domestic violence and family court judges that address rights of access to or control of the property. The amendments provide that a PHA or Section 8 landlord may bifurcate a lease in order to evict, remove, or terminate the assistance of the offender while allowing the victim, who is a tenant or lawful occupant, to remain.

Documentation and confidentiality. Before complying, a PHA or Section 8 landlord may ask an individual for documentation that he or she is or has been a victim of domestic violence, dating violence, or stalking, subject to certain statutory requirements related to confidentiality and the types of documentation that may be used.

Voucher portability. VAWA also clarifies portability for victims of domestic violence, dating violence, or stalking in the Section 8 Housing Choice Voucher Program.

PHA plan. VAWA requires PHAs to include a description of any goals, objectives, policies, or programs they have in place to serve the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking when they are developing their five-year PHA plans.

Consolidated plan. VAWA also adds the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking to the "consolidated planning" process that local communities undertake every five years to receive HUD housing assistance.

## **Changes in Homeless Management Information System (HMIS)**

VAWA amended the McKinney-Vento Homeless Assistance Act to require HUD to instruct grantees and sub-grantees under the Act not to enter personally-identifying information into any shared databases, such as the Homeless Management Information System (HMIS). The change is intended to protect the safety and confidentiality of victims of domestic violence, dating violence, sexual assault, and stalking who use emergency shelter and homeless services programs that receive funding under the act and are therefore otherwise subject to HMIS data reporting requirements. *See* § 605, Pub. L. 109-162, 119 Stat. 2960 (January 5, 2006); 42 U.S.C. § 11383, as amended.

## **New Grant Programs for Public and Assisted Housing Agencies to Address Domestic Violence, Dating Violence, Sexual Assault, and Stalking**

In line with the long-standing history and intent of VAWA, the new law also helps PHAs and federally-assisted housing providers respond appropriately to domestic violence, dating violence, sexual assault, and stalking through an incentive grant program. Grants will be used for educating and training agency staff, developing improved housing admissions and occupancy policies and best practices, improving collaboration with victim services organizations, and reducing discriminatory evictions and denials of housing to victims.

To be administered by the Office on Violence Against Women in the Department of Justice, in consultation with HUD and the Department of Health and Human Services (HHS), Congress authorized funding for the grant program at \$10 million for each of fiscal years (FY) 2007 through 2011. *See* § 41405, Pub. L. 109-162, 119 Stat. 2960 (January 5, 2006). Before the program can be administered, it must receive funding from Congress through the annual appropriations process. The President's budget for FY 2007 (beginning October 1, 2006) does not include funding for the program.

## **New Grant Programs for Collaboration in Developing Long term Housing Stability for Victims**

The new law establishes a grant program to fund collaborative local efforts to create long term housing stability for victims of domestic violence, dating violence, sexual assault, and stalking who are homeless or at risk for becoming homeless. The program is designed to provide an incentive for local housing, homelessness, and victim services providers to establish partnerships in approaching community agencies for development of long term, affordable housing.

To be administered by HHS, the grant program received funding authorization from Congress of \$10 million for each of fiscal years (FY) 2007 through 2011. *See* § 41404, Pub. L. 109-162, 119 Stat. 2960 (January 5, 2006). Before the program can be administered, it must receive federal funding from Congress through the separate annual appropriations process. The President's budget for FY 2007 (beginning October 1, 2006) does not include funding for the program.

## **Amendments to Transitional Housing for Victims Grant Program**

The new law clarifies requirements in the existing transitional housing program for victims, which the Office on Violence Against Women of the Department of Justice administers, to ensure voluntary participation in supportive services and to permit operating expenses as an eligible use of funds. Congress also increased the program's annual authorization from \$30 million to \$40 million for each of fiscal years (FY) 2007 through 2011. *See* § 602, Pub. L. 109-162, 119 Stat. 2960 (January 5, 2006); 42 U.S.C. § 13975, as amended. The program is subject to annual appropriations from Congress. The President's budget for FY 2007 (beginning October 1, 2006) includes \$14.9 million for the program.

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<sup>i</sup> U.S. Conference of Mayors/Sodexo Survey on Hunger and Homelessness, 2005.

<sup>ii</sup> Wilder Research Center, *Homeless in Minnesota 2003* 22 (Feb. 2004); Center for Impact Research, *Pathways to and from Homelessness: Women and Children in Chicago Shelters* 3 (Jan. 2004); Nat'l Center on Family Homelessness & Health Care for the Homeless Clinicians' Network, *Social Supports for Homeless Mothers* 14, 26 (Oct. 2003); Inst. for Children & Poverty, *The Hidden Migration: Why New York City Shelters Are Overflowing with Families* (April 2004); Homes for the Homeless & Inst. for Children & Poverty, *Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America* 3 (1998); Virginia Coalition for the Homeless, *1995 Shelter Provider Survey* (1995) (out of print), cited in Nat'l Coalition for the Homeless, *Domestic Violence and Homelessness: NCH Fact Sheet #8* (1999).

<sup>iii</sup> A. Browne & S. Bassuk, "Intimate Violence in the Lives of Homeless and Poor Housed Women: Prevalence and Patterns in an Ethnically Diverse Sample," *American Journal of Orthopsychiatry*, 67(2), 261-278, April 1997; A. Browne, "Responding to the Needs of Low Income and Homeless Women Who are Survivors of Family Violence," *Journal of American Medical Association*, 53(2), 57-64, Spring 1998.

<sup>iv</sup> *Id.*

<sup>v</sup> Charlene K. Baker et al., "Domestic Violence and Housing Problems: A Contextual Analysis of Women's Help-seeking, Received Informal Support, and Formal System Response," *Violence Against Women* 9(7) (2003): 754-783.

<sup>vi</sup> See, e.g., U.S. Dep't of Hous. & Urban Dev. v. Rucker, Nos. 00-1771 & 00-1871 (U.S. filed 2001) (brief of *amici curiae* National Network to End Domestic Violence, *et al.*); *United States ex rel. Alvera v. C.B.M. Group, Inc.*, No. CV 01-857-PA (D. Or. 2001) (consent decree) (Clearinghouse No. 53,895); *Warren v. Ypsilanti Housing Commission* (E.D. Mich. filed 2002, settled 2003), <http://www.aclumich.org/pdf/briefs/Comp8feb02.pdf>; *Raney v. Crawford/Katica, Inc.* (W.D. Wash. filed 2004), complaint available from Northwest Women's Law Center, <http://www.nwwlc.org>; *Winsor v. Regency Property Management, Inc.* (Wis. Cir. Ct. 7, 1995) (memorandum opinion, Case No. 94 CV 2349). See also National Law Center on Homelessness & Poverty & National Network to End Domestic Violence, *Survey of Domestic Violence Evictions and Denials*, Summer 2005.

<sup>vii</sup> Office of Policy Development and Research Information Service, U.S. Department of Housing and Urban Development, *Trends in Worst Case Needs for Housing, 1978-1999, Plus Update on Worst Case Needs in 2001* xix (2003), available at [www.huduser.org/publications/pdf/trends.pdf](http://www.huduser.org/publications/pdf/trends.pdf).