



State Laws Can Help Domestic Violence Victims

HOUSING LAWS PROTECTING DOMESTIC VIOLENCE VICTIMS

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Many domestic violence victims have reported losing their housing due, at least in part, to the violence in their lives. Only two states have enacted laws prohibiting landlords or homeowners from discriminating against *all* domestic violence victims in *all* circumstances. A number of other states have passed laws that prohibit housing discrimination against, or provide some protections for, domestic violence victims in certain circumstances.

STATE LAWS

ARIZONA: [ARIZ. REV. STAT. ANN. § 33-1315.](#)

This law states that a rental lease may not provide that a tenant agrees to waive or limit her right to summon a peace officer or other emergency assistance in response domestic violence or that a tenant agrees to make a payment of monetary or other penalties in connection with doing so. **Approved by the governor on May 11, 2004.**

CALIFORNIA: [CAL. HEALTH AND SAFETY CODE § 34328.1.](#)

This law requires public housing agencies to submit a report each year on the first of October that includes data on termination of tenancies of victims of domestic violence in housing authority units and termination of section 8 vouchers of domestic violence victims. Terminations must be included regardless of whether the termination was based in whole or in part of activity related to the domestic violence. The report must also state what steps, if any, were taken by the housing authority prior to the termination to assist the victim.

COLORADO: [COL. REV. STAT. ANN. § 13-40-107.5\(5\)\(b\).](#)

This law provides a defense against eviction for “a victim of domestic violence that has been documented by the filing of a police report or the issuance of a restraining order” if the landlord seeks to evict the tenant because of domestic violence on the ground that the tenant or the tenant’s guest committed a crime or dangerous act on or near the premises.

COLORADO: [2004 Col. Sess. Law 172, H.B. 1153 \(Colo. 2004\), to be codified at COL. REV. STAT. ANN. § 38-12-401.](#)

This law provides that landlords may not include in rental agreements “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” domestic violence. The right to call for police or emergency assistance is non-waivable. **Signed by the governor on April 21, 2004. This law will take effect 90 days after conclusion of the final adjournment of the general assembly permitting referendum, and it will apply to lease agreements entered into on or after the effective date.**

IOWA: IOWA CODE §§ 562A.27A & 562B.25A(3) (2003).

This law creates an exemption from the statutory provision permitting landlords to terminate the tenancy of tenants who create a “clear and present danger” to others for any tenant who provides written proof that the activities creating the danger were conducted by a person other than the tenant, and the tenant (a) sought a protective order or similar order against the person creating the danger, (b) reported the person creating the danger to a law enforcement agency in an effort to initiate criminal action, or (c) wrote a letter to the person creating the danger telling the person not to return to the premises and warning the person that return to the premises may result in a trespass or other action. If the tenant wrote a letter to the person creating the danger and her or she nonetheless returned to the premises, the tenant must undertake (a) or (b) to be covered by this exemption. A recent amendment, signed on March 29, 2004, [2004 Iowa Acts 1016 \(S.F. 2199\)](#), provides that a landlord seeking to terminate a tenancy on grounds of “clear and present danger” must notify the tenant in writing as to “the specific activity causing the clear and present danger” and inform the tenant in writing of the specific protections described above concerning evictions for activities by persons other than the tenant.

LOUISIANA: LA. REV. STAT. ANN. §46:2136(A)(2).

This law permits judges who issue protective orders to grant possession of residential housing to petitioning victims of abuse “to the exclusion of” the abuser where “the residence is solely owned by the defendant and the petitioner has been awarded temporary custody of the minor children born of both parties.” It also extends the law to cover victims of dating violence.

LOUISIANA: 2004 La. Acts 444, to be codified at La. Rev. Stat. Ann. § 40:506(D).

This law provides that local public housing authorities may not terminate the tenancy of a resident based on “domestic abuse, dating violence or family violence” committed against the head of a household, member of household, or a resident. Local public housing authorities may terminate the tenancy of the perpetrator of such violence. **This law was signed by the governor on June 24, 2004, and was effective immediately.**

MINNESOTA: MINN. STAT. § 504B.205.

This law prohibits a landlord from limiting a tenant’s “right to call for police or emergency assistance in response to domestic abuse” or from imposing a penalty on the tenant for exercising that right. The law may be enforced by a tenant in a civil action against a landlord for the greater of actual damages or \$250, or by the attorney general. A tenant may also raise her or his statutory right to request police or emergency assistance as a defense to an eviction, pursuant to [MINN. STAT. § 504B.285](#), provided that the tenant can show by a “fair preponderance of the evidence” that the eviction resulted in whole or in part “as a penalty for the defendant's good faith attempt to secure or enforce” that right.

NEW MEXICO: N.M. STAT. ANN. § 47-8-33(J).

This law provides a defense against eviction for a victim of domestic violence if the landlord tries to evict the tenant because the tenant committed or allowed another person to commit a substantial violation of the lease. The law provides that a tenant will not be evicted if she filed for or received a temporary restraining order before or as a result of the incident leading to the eviction notice. It also grants the court discretion in other cases to evict the resident accused of violating the lease while allowing the other tenants to remain.

OREGON: 2003 ORE. H.B. 2765.

This law requires a landlord to release a tenant from a rental agreement if the tenant gives the landlord at least 14 days written notice and provides verification that the tenant has been the victim of domestic violence, sexual assault, or stalking within 90 days preceding the date of the notice. The law also requires that a landlord promptly change locks on a tenant’s unit if the tenant provides verification that the tenant has been the victim of domestic violence, sexual assault, or stalking. The law exempts the landlord from liability to a

perpetrator of violence whom the landlord excludes from the rental unit in response to a court order of protection.

RHODE ISLAND: [2002 R.I. Pub. Laws 118](#) (codified at R.I. GEN. LAWS §§ [34-37-1,-2,-2.4,-3,-4](#)).

This law declares that is illegal, and against public policy, for landlords or mortgage lenders to terminate a lease or otherwise discriminate against a tenant or tenant applicant because that tenant or tenant applicant, or a member of her or his household, “is or has been, or is threatened with being, the victim of domestic abuse” or “has obtained, or sought, or is seeking” a restraining order. The law allows a landlord to evict any household member who is committing domestic abuse.

TEXAS: [TEX. PROP. CODE ANN. § 92.015](#).

This law prohibits landlords from (1) interfering with tenants’ rights to summon police or other emergency assistance in response to domestic violence, and (2) imposing “monetary or other penalties” on tenants who “summon[] police or emergency assistance.” In addition to other remedies provided by law, this law allows a tenant to recover from or against a landlord who violates this law a civil penalty equal to one month’s rent, actual damages suffered by the tenant as a result of the landlord’s violation of this section, injunctive relief, and reasonable attorney’s fees incurred by the tenant in seeking enforcement of this section.

WASHINGTON: [E.H.B. 1645](#), 58th Leg. (Wash. 2003).

Under this new law, “[i]f a tenant notifies the landlord in writing that he or she or a household member is a victim of domestic violence, sexual assault, or stalking,” and either (1) has a valid order of protection or (2) has reported the incident to a law enforcement officer, court employee, clergy member, attorney, social worker, mental health professional, licensed counselor, or advocate at an agency that assists victims of domestic violence, sexual assault, or stalking,” then the tenant “may terminate the rental agreement and quit the premises without further obligation under the rental agreement,” provided that the tenant requests to terminate the rental agreement within ninety days of the act giving rise to the protective order or the report. In addition, 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 . . . this act.” This law also requires landlords to comply with a tenant’s request to change the locks at the tenant’s expense if the tenant has a court order excluding another tenant from the premises. **This law was signed by the Governor on March 15, 2004 and is effective immediately.**

WASHINGTON: [WASH. REV. CODE ANN. § 59.18.352](#).

This law allows a tenant to terminate a rental agreement without further obligation if the tenant notifies the landlord that the tenant or a co-tenant was threatened by another tenant with a deadly weapon, the threatening tenant was arrested, and the landlord failed to file an unlawful detainer action against the threatening tenant within seven days of receiving notice of the arrest.

WASHINGTON: [WASH. REV. CODE ANN. § 59.18.130\(8\)\(b\)\(ii\)](#).

This section of the law, which prohibits all tenants from engaging in activities “imminently hazardous” to the safety of others that entail physical assaults or use of a deadly weapon and that result in arrest, states: “Nothing in this subsection (8) shall authorize the termination of tenancy and eviction of the victim of a physical assault or the victim of the use or threatened use of a firearm or other deadly weapon.”

WISCONSIN: [WIS. STAT. ANN. § 106.50\(5m\)\(d\)](#).

This law provides that “[n]o 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 fact that a tenant has or may be the victim of domestic abuse.”

RECENT LEGISLATIVE PROPOSALS ADDRESSING HOUSING RIGHTS OF DOMESTIC VIOLENCE VICTIMS

The following legislation has been introduced in the current or prior legislative sessions regarding housing discrimination against, or other protections for, victims of domestic violence. The contents of the bills vary and the status of a particular bill may change very quickly. For more information about each bill, you may contact Legal Momentum or the legislative information service at your state legislature, or consult your legislature's web page.

ARIZONA: [H.B. 2317](#), 41st Leg., 2d Sess. (Ariz. 2004).

This bill, as originally introduced, would have prohibited landlords from retaliating against a tenant after “the tenant or someone acting on the tenant’s behalf, has summoned police or other emergency assistance in response to domestic violence” and from requiring domestic violence victims to pay penalties for summoning emergency assistance in response to domestic violence. It also would have enabled a victim of domestic violence to terminate her lease on fourteen days’ notice after providing the landlord (a) a copy of an order of protection obtained against another tenant or occupant of the rental unit, (b) written proof of the conviction of another tenant or occupant of the unit for domestic abuse, or (c) a copy of a police report regarding an incident of domestic violence by another tenant or occupant of the unit. **An amended version of H.B. 2317, addressing solely limitations in lease terms, passed and was approved in May 2004; a summary of the law is included above.**

HAWAII: [H.B. 2021](#), 22nd Leg. (Haw. 2004).

This proposed law would amend Hawaii’s fair housing law to prohibit discrimination against victims of domestic violence (as well as discrimination based on source of income) in any real estate transaction. (Previously introduced bills in Hawaii include [S.B.2464](#) & [H.B.2121](#), 21st Leg. (Haw. 2002).)

KANSAS: [H.B. 2864](#), 80th Leg. (Kan. 2004).

This bill would exempt domestic violence victims from the provision of Kansas landlord-tenant law prohibiting a tenant from terminate a lease because of a condition caused by the tenant or a person or animal on the premises with the tenant’s consent. It would also allows a tenant who is a victim of domestic violence to terminate a month-to-month tenancy “upon written notice to the landlord.” The bill defines “victim of domestic violence” as any person “who can prove the existence of domestic violence” by providing (1) a court order, (2) a police record, (3) documentation that the abuser has been convicted under relevant statutes, (4) medical documentation of the abuse, (5) a statement by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate, or any other professional, or (5) a sworn statement from the person attesting to the abuse.

MASSACHUSETTS: [S.B. 707](#), 163d Gen. Ct. (Mass. 2003).

This proposed law would amend existing housing discrimination laws to prohibit discrimination against victims of domestic violence, rape, sexual assault, and stalking. It would also create a defense to eviction if a landlord attempts to evict a tenant because the tenant was a victim of one of those crimes. In addition, “[i]f a tenant notifies the landlord in writing that he or she is a victim” of one of those crimes, and either (1) has a valid order of protection, (2) has notified a law enforcement officer, or (3) has consulted with a police officer, licensed medical care provider, state court employee, clergy member, attorney, social worker, licensed mental health professional, licensed counselor, or advocate at an agency that assists victims of domestic violence, sexual assault, or stalking, then “the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement.” 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 status as a victim of

domestic violence, sexual assault or stalking, or based on the tenant or applicant having terminated a rental agreement under” this section. Landlords who violate this provision may be liable in a civil action for damages brought by the tenant or applicant. Tenant screeners may not provide landlords with information about prospective tenants’ status as victims of the above crimes, and may be subject to civil liability if they do so.

NEW YORK CITY: [Intro. 107 of 2002](#) (New York City Council 2002).

This proposed local law would, among other things, prohibit housing discrimination against victims of domestic violence, sex offenses or stalking. Such discrimination includes taking adverse actions against an individual “based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.” The proposed law would also require reasonable accommodations in housing for victims of domestic violence, sex offenses or stalking. **An amended version of Intro 107 that did not include the housing provisions was enacted in Dec. 2003. The housing provisions will be re-introduced in 2004.**

NEW YORK STATE: [S.B. 4812/A.B. 8135](#), 2003-2004 Reg. Sess. (N.Y. 2003).

This proposed law would prohibit housing discrimination against victims of domestic violence and stalking, “as documented by the filing of a police report, the issuance or an order of protection,” or “verification of consultation with” a police officer, health care provider, court employee, clergy member, attorney, social worker, rape crisis counselor, or domestic violence advocate. The law would also prohibit any person or entity from obtaining or providing information relating to the status of a person as a victim of domestic violence or stalking. **A.B. 8135 passed the Assembly on June 4, 2003 and was given a Senate calendar number on Feb. 23, 2004.**

OREGON: [H.B. 3290](#), 72nd Leg. Ass. (Ore. 2003).

This proposed law would amend Oregon’s fair housing laws to prohibit any discrimination against “victims of domestic violence, sexual assault or stalking” in rentals, sales, leases, or other real estate-related transactions.

OREGON: [H.B. 3562](#), 72nd Leg. Ass. (Ore. 2003).

This proposed law would require a landlord to release a tenant from her lease if the tenant provides the landlord with proof of an order of protection. The proposed law also would prohibit corporations, organizations and individuals from discriminating against a tenant who was released from a lease pursuant to that provision. In addition, the proposed law would permit landlords to evict perpetrators of domestic violence.

WASHINGTON: [S.B. 5553](#), 58th Leg. (Wash. 2003).

This proposed bill provides that a landlord or neighbor, with supporting evidence, may request a court to authorize immediate eviction of a tenant if the tenant has committed acts of domestic violence (or committed other specified crimes). If “the cotenant is a victim of domestic violence that is the basis for the proceeding,” the cotenant shall not be removed or evicted.

WASHINGTON: [H.B. 2144](#), 58th Leg. (Wash. 2003).

This proposed law would prohibit a tenant from engaging in “any act of domestic violence . . . against another tenant of the same rental dwelling unit that results in an arrest” but “does not authorize the termination of tenancy and eviction of the victim of an act of domestic violence.” In addition, it provides that a landlord may evict a perpetrator of domestic violence against another tenant if the tenant was arrested for domestic violence and the domestic violence victim consents to the eviction by affidavit. A landlord “may not be held liable in any cause of action” for bringing an unlawful detainer action against a tenant who has committed an act of domestic violence.

This fact sheet, with links to cited laws and bills, is available on the Legal Momentum web site, at <http://www.legalmomentum.org/issues/viol/FactsheetPage.shtml>.

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