



## **Addressing Housing Barriers for Survivors of Domestic Violence in Colorado**

### *A Toolkit for Survivors*

This toolkit is designed to assist survivors of domestic violence in better understanding federal and state law housing protections, survivor rights, and options for housing.\*

*\*The information provided herein should not be construed as legal advice. CCADV cannot guarantee the completeness of the information contained in this document, or its accuracy after the date of publishing*

## **1 DEFINITIONS AND LAWS**

---

### **Public Housing Authorities (PHA's):**

Public housing authorities provide decent, safe, and affordable quality rental housing for eligible low-income families, the elderly, and persons with disabilities.

#### Who is eligible?

- Low-income families and individuals (income eligibility for Colorado found [here](#))
- Qualify as an elderly person, person with a disability, or as a family
- U.S. citizenship or [eligible immigration status](#)
  - PHA's 'should' also provide prorated PHA/Section 8 vouchers to families with eligible children even if they lack documentation
- Pass reference check

For full application processes and rules find your local PHA at [www.hud.gov](http://www.hud.gov) or find a full list [here](#)

#### What programs are administered by PHA's?

- Public housing
  - Housing owned and operated by the PHA
- Project-Based Section 8
  - Housing owned and operated by private landlords
  - Subsidy is attached to a specific building
- Housing Choice Vouchers/Section 8 Vouchers
  - Housing owned and operated by private landlords
  - Subsidy moves with tenant

#### What can PHA's offer domestic violence survivors?

- Preferences for domestic violence survivors and the ability to move them up on the list to get into permanent housing more quickly
- Protections from discrimination due to domestic violence

- Options for permanent, affordable, and quality housing

## **Federal Laws:**

[Violence Against Women Act \(VAWA\) \[42 U.S.C. §13925; Public Law 109-162\].](#)

The Federal Violence Against Women Act (VAWA) protects survivors of domestic violence, sexual assault, or stalking from being denied housing or facing eviction due to their status as survivors.

A landlord **cannot** legally terminate a lease, refuse to renew a lease, evict, or refuse to rent to someone just because they are a survivor.

A landlord can evict a survivor based on non-payment of rent or violation of other terms of the lease and **can** collect payment for rent owed prior to the incident or damage expenses. These protections cover all federally-subsidized housing programs which are administered by the U.S. Department of Housing and Urban Development, the USDA, and the Treasury.

If the perpetrator of violence is the only person in the household with established eligibility for the housing, the survivor will be given a chance to establish eligibility. If the survivor is not eligible for the housing, the covered program must give the survivor “reasonable time” to find new housing.

### Emergency Transfer

Public Housing Authorities (PHA’s) have until June 14, 2017, to develop emergency transfer plans through their federal agency (HUD, USDA, Treasury) which would allow survivors to transfer to another safe dwelling unit covered by the housing program under the following conditions:

- If the survivor requests the transfer and reasonably believes that they are threatened with imminent harm from further violence if they remain within the same dwelling unit
- Survivors of sexual assault can request the transfer if the assault occurred on the premises during the 90-day period preceding the request for transfer.

The policy should include reasonable confidentiality measures so the survivor’s information is not disclosed.

HUD’s model emergency transfer plan is as follows:

- allows a survivor to self-certify their need for an emergency transfer, ensuring documentation is not a barrier to protecting their immediate safety;
- allows the survivor to determine what is a safe unit for purposes of the transfer, ensuring that the survivor has control over their own safety planning;
- requires housing providers to allow for a resident to move immediately if there is another safe and available unit that does not require the survivor to undergo an application process as a new tenant, ensuring quicker access to safe housing;
- requires housing providers to explain the efforts they will take when there is not a safe and

available unit available for an emergency transfer and encourages housing providers to partner with victim services and advocates and other housing providers to assist a survivor; and,

- requires housing providers to document requests for emergency transfers, including the outcome of the request, and to report annually to HUD.

### Terminating a Lease

VAWA allows survivors to terminate their lease early if they meet the following three conditions:

1. They want to vacate their apartment/house because they are afraid that they and/or their children face immediate danger as a result of domestic violence, sexual assault, or stalking;
2. Notify their landlord in writing that they are a survivor of domestic violence, sexual assault, or stalking; and:
3. Provide their landlord a copy of *one* of the following:
  - Protection order
  - Police report or court report
  - Signed document from someone who has assisted the survivor related to the violence committed against them (survivor advocate, medical professional, or attorney).
  - HUD certification form
  - Statement or other evidence provided by the tenant at the discretion of the PHA, owner, or manager

The final rule released by HUD on VAWA on October 24<sup>th</sup>, 2016, makes it clear that under most circumstances, a survivor need only to self-certify in order to exercise their rights under VAWA, ensuring third party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

VAWA also established a requirement that tenants/participants be notified of their VAWA rights and they should be notified 1) at the time an applicant is denied residency 2) at the time that the individual is admitted to the program, 3) with any notification of eviction or termination of assistance. Notice must also be developed in multiple languages.

### Protections Against Adverse Effects of Abuse

The final rule released by HUD on VAWA on October 24<sup>th</sup>, 2016, added in protections against adverse effects of abuse. The rule says,

*“Domestic violence can often have negative economic and criminal consequences on a survivor. The perpetrator may take out credit cards in a survivor’s name, ruining their credit history, or causing damage to survivor’s property causing eviction and poor rental history. The perpetrator may force a survivor to participate in criminal activity or a survivor may be arrested as part of policies that require arresting of both parties in a domestic disturbance. The final rule ensures that covered housing providers*

*do not deny tenancy or occupancy rights based solely on these adverse factors that are a direct result of being a survivor.”*

HUD will provide guidance for covered housing providers to aid how they may determine whether factors that might otherwise serve as a basis for denial or termination of assistance or eviction have directly resulted from the fact that an applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

### The Fair Housing Act

The federal Fair Housing Act mandates that landlords cannot discriminate on the basis of race, color, national origin, religion, sex, familial status, or disability.

The Fair Housing Act in its entirety plays an important role in protecting survivors. Two notable aspects of the law are highlighted below:

1. The Fair Housing Act ensures that landlords must make reasonable accommodations for service animals. If your building does not normally allow pets, you may have to waive that restriction for a tenant who uses a service animal.
2. The Fair Housing Act protects pregnant tenants from unlawful eviction or denial. You cannot refuse to lease or evict someone because they have or will be having children.

### Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act

The HEARTH Act amends and reauthorizes the McKinney-Vento Homeless Assistance Act with substantial changes, including the definition of homelessness. For more information on the full definition, see: [https://www.onecpd.info/resources/documents/HEARTH\\_HomelessDefinition\\_FinalRule.pdf](https://www.onecpd.info/resources/documents/HEARTH_HomelessDefinition_FinalRule.pdf)

#### **Homelessness Definition:**

From the regulation, any individual or family is considered homeless who: § 91.5 (4)

- *(i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;*
- *(ii) Has no other residence; and*
- *(iii) Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.*

Additionally, for survivors who do not meet the criteria above, they may be considered homeless if they are unaccompanied youth under 25 years of age, or families with children and youth, who don't qualify under other sections of the definition but: (§ 91.5 (3))

- who are defined as homeless under other federal laws, including section 41403 of the Violence Against Women Act of 1994;
- have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

- have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance;
- and can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

**VAWA's definition** (42 U.S.C. 14043e-2)

(6) the terms "homeless", "homeless individual", and "homeless person" -

(A) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and

(B) includes -

(i) an individual who -

(I) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

(II) is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;

(III) is living in an emergency or transitional shelter;

(IV) is abandoned in a hospital; or

(V) is awaiting foster care placement;

(ii) an individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(iii) migratory children (as defined in section 6399 of title 20) who qualify as homeless under this section because the children are living in circumstances described in this paragraph;

## State Laws

[\[Colo. Rev. Stat. C.R.S. 38-12-402 & 13-40-104\(4\)\(a\)\(b\)\(c\)&\(d\)\]](#)

Colorado State law protects survivors of domestic violence, sexual assault, and/or stalking and their families from **wrongful** eviction because of the violence committed against them. A landlord **cannot** legally terminate a lease or evict someone just because they are a survivor.

A landlord can evict a survivor based on non-payment of rent or violation of other terms of the lease and **can** collect payment for rent owed prior to the incident or damage expenses.

Survivors cannot be evicted or penalized for making emergency assistance calls regarding a domestic violence situation. Nor can they forfeit their right in a lease to call for emergency assistance.

### Terminating a Lease

State law (C.R.S. 38-12-402) allows victims to terminate their lease early if they meet the following three conditions:

1. They want to vacate their apartment/house because they are afraid that they and/or their children face immediate danger as a result of domestic violence, sexual assault, and/or stalking.

2. Notify their landlord in writing that they are a victim of domestic violence, sexual assault, and/or stalking.
3. Provide their landlord a copy of **ONE** of the following:
  - A written statement from an [application assistant](#) or **medical professional** who has consulted with the victim related to the violence committed against them

OR

  - Protection Order or a police report documenting the abuse that is no older than 60 days.

## Filing Complaints

Tenants have a right to file complaints if they feel they have been discriminated against. There may be additional avenues to dispute a denial of housing or to file a complaint in your local community.

Common options for filing complaints for tenants:

- U.S. Department of Housing and Urban Development ([HUD](#)) [Online Filing Form](#)
- [Colorado Civil Rights Division](#)
- [U.S. Civil Rights Division](#)
- For discrimination against people with disabilities or older people visit Disability Law Colorado [here](#)
- For more information and legal options visit Colorado Legal Services: Housing Discrimination [here](#)

Other resources for advocates and survivors:

If you have questions about how to contact your local PHA or concerns about survivor housing protections, you can also contact:

- Denver Office of Public Housing: 800-377-2019
- Division of Housing: 303-864-7810

## 2 ADDITIONAL RESOURCES

---

### Local Domestic Violence Program(s)

An advocate at your local domestic violence program can be crucial support for you to find safe and affordable housing and to help advocate for you and your rights. To find your local program call the National Domestic Violence Hotline at **1-800-799-7233** or visit [www.ccadv.org/find-help](http://www.ccadv.org/find-help)

### Colorado Legal Services

Colorado Legal Services can provide services to low-income individuals and families and most of their offices to assist with housing related issues. To find out if you qualify and to learn more you can call **303-837-1321** or visit [www.coloradolegalservices.org](http://www.coloradolegalservices.org)

Rocky Mountain Victim Law Center

Phone: 303-295-2001 Website: [www.rmvictimlaw.org/](http://www.rmvictimlaw.org/)

Colorado Aid & Assistance Programs:

[http://www.needhelppayingbills.com/html/colorado\\_assistance\\_programs.html](http://www.needhelppayingbills.com/html/colorado_assistance_programs.html)

Colorado Housing Financial Assistance Guide:

<http://www.englewoodgov.org/home/showdocument?id=11808>

Colorado Cross-Disability Coalition: <http://www.ccdconline.org/about/advocacy>

Fair Housing Resources: <https://www.colorado.gov/pacific/dola/fair-housing-resources>

HUD Tenant Housing Rights

HUD's website has additional information on state housing rights and resources.

<http://portal.hud.gov/hudportal/HUD?src=/states/colorado/renting/tenantrights>

Women's Law

WomensLaw.Org provides a condensed summary of survivor housing rights in Colorado.

[http://www.womenslaw.org/laws\\_state\\_type.php?id=15360&state\\_code=CO](http://www.womenslaw.org/laws_state_type.php?id=15360&state_code=CO)

Colorado Coalition Against Domestic Violence

Additional resources and statewide information can be obtained at [ccadv.org](http://ccadv.org) or by contacting Stevi Gray, Housing Program Manager at 303-962-3321