



Housing Rights of Domestic Violence Survivors in Maine

June 2019



MCEDV.

The Maine Coalition
to End Domestic Violence

Connecting people, creating frameworks for change.

mcedv.org

Today We Will Cover

- Domestic Violence Resource Centers & available services for survivors
- The Violence Against Women Act (VAWA) and related HUD guidance
- Maine laws on the housing rights of survivors

DVRC SERVICES

- 24-hour toll-free helplines
- One-on-one support & advocacy
- Support groups
- Emergency sheltering options
- Transitional housing services
- Legal advocacy & representation or referrals
- Community and school-based education
- Information and access to public assistance
- Children's programs
- Professional training
- Collaborative initiatives



Help is just a call away.

24 Hour • Toll Free • Confidential

1-866-834-HELP (4357)

Maine Telecommunications Relay Service:
1-800-437-1220

MCEDV MEMBERS:

AROOSTOOK

Hope and Justice Project

PENOBSCOT & PISCATAQUIS

Partners for Peace

KENNEBEC & SOMERSET

Family Violence Project

HANCOCK & WASHINGTON

Next Step Domestic Violence Project

ANDROSCOGGIN, FRANKLIN & OXFORD

Safe Voices

KNOX, LINCOLN, SAGadahoc & WALDO

New Hope for Women

CUMBERLAND

Through These Doors

YORK

Caring Unlimited

CULTURALLY SPECIFIC SERVICES

Immigrant Resource Center of Maine



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What Programs Does VAWA Apply To?

HUD Programs

- Public Housing
- Section 8 Vouchers
- Project-based Section 8
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for People with Disabilities
- Housing Trust Fund
- § 236 Multifamily rental housing
- § 221d3/d5 Below Market Interest Rate (BMIR)
- HOME
- HOPWA (Housing Opportunities for People w/ AIDS)
- McKinney-Vento Homelessness Programs (includes ESG; CoC)

Department of Agriculture

- Rural Development (RD) Multifamily

Department of Treasury/IRS

- Low Income Housing Tax Credit (LIHTC)

Who Does VAWA Protect?

VAWA covers people who are subject to:

Domestic Violence: Any felony or misdemeanor crime of violence committed by: a current/former spouse or intimate partner, person with whom the victim shares a child, person who is or has cohabited with the victim; a person against a victim protected from acts under state/local domestic and family violence laws.

Dating Violence: Violence committed by a person who is/was in a social relationship of intimate nature w/ victim as determined by three factors.

Sexual Assault: Any nonconsensual sexual act prohibited by law.

Stalking: Any conduct directed toward a specific person that would cause a reasonable person to fear for safety or suffer substantial distress.

VAWA applies to applicants and tenants.

Notice of Occupancy Rights

VAWA requires each appropriate agency develop a notice of rights under VAWA for tenants and provide such notice:

- At the time a person is denied assistance;
- When a person is admitted as a tenant of a housing unit or given assistance; and
- When a tenant is threatened with eviction or termination of housing benefits.

Model Notice of Occupancy Rights Under the Violence Against Women Act (form HUD-5380)

VAWA Documentation Options for Survivors

1. Self Authenticating Form

- HUD Form 5382 – Self Certification (all HUD programs) – translated into 11 languages;
- Must be provided together with the VAWA Notice of Occupancy Rights.

2. Police, court or administrative record

- Record can be from a federal, state, tribal, territorial, or local entity or administrative record.

3. Statement from third party

- Can be from a victim services provider, medical professional, mental health professional or attorney;
- Must be signed by both third party and survivor under penalty of perjury.

4. Statement or other evidence (housing provider's discretion)

Proving Abuse

- Survivor gets to choose documentation option.
- Housing providers must accept whatever documentation the survivor gives:
 - Housing providers must accept self-certification form (may accept verbal claim for VAWA protections).
 - Survivors do not have to contact the police or initiate legal proceedings against abuser/perpetrator to access VAWA protections.
- Only exception – when there is conflicting evidence, housing providers can ask for additional documentation.
- Housing providers cannot judge the merits of claims of VAWA crimes.

Family Breakups & Section 8 Vouchers

In deciding who gets the voucher, the housing authority can consider:

- Whether remaining family members should get the assistance;
- Interest of minor children or of ill, elderly, or disabled family members;
- Whether family members were forced to leave unit because of domestic violence, dating violence, sexual assault or stalking;
- Whether any family member is receiving protection as a victim of domestic violence, dating violence, sexual assault, or stalking;
- Other factors specified by the Housing Authority.

Family Breakups & Section 8 Vouchers

- If a family breakup results from the violence or abuse, “the PHA must ensure that the victim retains assistance.”
- Survivor can request the voucher be transferred to their name due to violence or abuse (orally or via written demand letter).

Section 8 Voucher Portability

- Many housing authorities prohibit Section 8 voucher tenants from moving during the 1st year of their lease, or from moving more than once during a 12-month period.
- However, there is a VAWA exception for survivors. These policies do **NOT** apply when the move is needed for safety.

Emergency Transfers

- VAWA requires housing providers to have adopted an Emergency Transfer Plan (ETP) by June 14, 2017.
- ETP must provide that a tenant who is a survivor of a VAWA crime qualifies for an emergency transfer if:
 - The tenant “expressly requests” the transfer, and
 - The tenant:
 - reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit, OR
 - the sexual assault occurred on the premises during the 90 calendar day period before the transfer request.

Emergency Transfers

- The ETP must allow tenants to seek both internal and external emergency transfers at the same time if no safe unit is immediately available.
“Safe unit” is defined as a unit that the survivor believes to be safe.
- Housing providers must explain the efforts they will take when there is not a safe unit available and encourages housing providers to partner with victim services and other housing providers to best assist a survivor.
- Housing providers must document requests for emergency transfers, including the outcome of the request, and report to HUD annually.

VAWA Confidentiality

- Information submitted by survivor under VAWA must be maintained in “strict confidence”.
- Housing providers cannot allow anyone administering assistance or employees to have access to confidential information unless explicitly authorized.
- Confidential information will not be entered into shared database or disclosed to others, except if disclosure is:

Requested or consented to in writing by survivor in time-limited release.

Required for use in eviction or termination hearing; or

Otherwise required by law.

Admissions

- PHAs, landlords, and owners may not deny an applicant housing **on the basis or as a direct result of** an applicant having been a survivor of domestic violence, dating violence, sexual assault, or stalking.
- See Notice PIH-2017-08 (HA) for examples of adverse factors that may be a “direct result” of abuse: poor credit history, poor rental history, or criminal history.

Adverse Factors as Direct Result of VAWA Crimes

- To trigger an analysis of whether an adverse factor is a “direct result” of domestic violence, dating violence, sexual assault, or stalking, the applicant/tenant must:
 - (1) Inform PHA/owner that they are a survivor of a VAWA crime; and
 - (2) Provide sufficient information for PHA/owner to make a determination re: the adverse factor.
- Without a request for VAWA protections, PHAs/owners are not required to determine whether an adverse factor is a direct result of a VAWA crime.

Eviction Protections

Maine Law (14 M.R.S. § 6001(6)(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 may be construed as:

- (1) A nuisance;
- (2) Damage to property; or
- (3) a lease violation arising from a nuisance, disturbance or damage to premises

Eviction Protections

VAWA

- PHAs, landlords, and owners may not evict a tenant on the basis or as a direct result of their status as a survivor.
- Crimes against a survivor directly relating to abuse are not grounds for evicting the survivor or terminating their rental subsidy.
- An incident of actual or threatened abuse does not constitute “a serious or repeated lease violation” or “good cause” for evicting the survivor or terminating their rental subsidy.

Eviction Protections

VAWA

- Housing authorities and owners can still evict if they can demonstrate an “actual and imminent threat” to other tenants or employees if the survivor is not evicted.
 - “Threat” means a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm.
 - Factors: duration of the risk, nature and severity of potential harm, likelihood that harm will occur, and length of time before harm would occur.
- Eviction should only occur if there are absolutely no other actions or remedies that can be taken that would reduce or eliminate threat.

Early Lease Termination 14 M.R.S. § 6001(6)(D)

For any and all rental housing in Maine:

A victim may terminate a lease early due to an incident or threat of domestic violence, sexual assault or stalking by providing:

- (1) 7 days written notice and “required documentation” where a lease is less than one year; or
- (2) 30 days written notice and “required documentation” where a lease is a term of one year or more.

A victim is thereafter not liable for any unpaid rent under the lease.

Early Lease Termination 14 M.R.S. § 6001(6)(D)

“Required Documentation” includes, but is not limited to:

- A statement signed by a domestic violence advocate, sexual assault advocate, or a victim witness advocate;
- A statement signed by a health care provider, mental health provider, or law enforcement officer;
- A copy of a protection from abuse/harassment complaint, temporary order or final order;
- A copy of a police report in response to an investigation of an incident of domestic violence; and
- A copy of a criminal complaint, indictment or conviction for DV charges.

Early Lease Termination

If a survivor is receiving housing assistance through a program covered by VAWA, housing assistance cannot be terminated based on the survivor having violated their lease obligations (including early termination).

Limit on Property Damage Liability 14 M.R.S. § 6001(6)(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 security deposit, so long as:

- the alleged perpetrator is a tenant; and
- the victim provides written notice of the damage within 30 days of the occurrence of the damage; and
- the victim provides “required documentation” that they are a victim of domestic violence, sexual assault, or stalking.

Limitation on Property Damage Liability

14 M.R.S. § 6001(6)(B)

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- A statement signed by a health care provider, mental health provider, or law enforcement officer;
- A copy of a protection from abuse/harassment complaint, temporary order or final order;
- A copy of a police report in response to an investigation of an incident of domestic violence; and
- A copy of a criminal complaint, indictment or conviction for DV charges.

Changing the Locks

14 M.R.S. § 6025

A victim may change the locks to any rental unit in the State of Maine at the victim's expense. Landlords and/or owners cannot prohibit lock changes.

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.

Thank You.

Jenny Stasio, Director of Operations
Through These Doors

jennys@throughthesedoors.org

Andrea Mancuso
Public Policy Director, MCEDV

andrea@mcedv.org



One Weston Court, Box 2
Augusta ME 04330
207-430-8334