

**Housing Rights for
Survivors of
Domestic Violence, Sexual
Assault, Dating Violence,
and Stalking:
VAWA 2022 and beyond**

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Introductions and Introductory Remarks



**Karlo Ng,
Director of Gender-Based
Violence & Equity at the
U.S. Dep't of Hous.
and Urban
Development**

HUD's VAWA Policy Goals

- Comprehensive implementation of VAWA 2013 and 2022
- Inclusive implementation
 - Sexual assault, LGBTQI+, BIPOC, immigrant survivors
- Ability for survivors to enforce VAWA
 - Filing FHEO complaints alleging VAWA violations -
https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

HUD's VAWA Policy Goals

- Broad understanding of VAWA among HUD grantees via training and technical assistance
- Interagency coordination
- Feedback loop with HUD grantees and other stakeholders

HUD's VAWA Implementation

- Currently in rulemaking
- 60-day Proposed Information Collection
 - VAWA forms and emergency transfer data collection
 - Comment deadline: January 3, 2023
 - <https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs>
- Upcoming guidance

National Housing Law Project



NHLP's mission is to advance housing justice for underserved people and communities. For over ten years, NHLP has been funded by the Department of Justice's Office on Violence Against Women to serve as a national technical assistance provider on the housing protections under the Violence Against Women Act (VAWA). NHLP has worked with thousands of advocates and housing providers on VAWA compliance and implementation issues.

NNEDV

- The **National Network to End Domestic Violence** is a social change organization dedicated to creating a social, political and economic environment where violence against women no longer exists.
- NNEDV's **Collaborative Approach to Safe Housing for Survivors Project** provides training and technical assistance to improve coordination between domestic violence and homeless services.



FREEDOM NETWORK TRAINING INSTITUTE

FNTI HOUSING TRAINING & TECHNICAL ASSISTANCE



WEB-BASED TRAININGS



RESOURCE LIBRARY



TECHNICAL ASSISTANCE

The National Sexual Assault & Housing Collaborative



National Alliance to
End Sexual Violence



NATIONAL SEXUAL ASSAULT COALITION

Resource Sharing Project



Poll: Tell Us About Yourself!

Where do you work?

- Domestic violence (DV) program
- Sexual assault (SA) program
- Dual (DV/SA) program
- Culturally specific provider
- Other (please share in chat)

POLL

How would you rate your knowledgeable of survivors' housing rights?

- I have no idea about any of this
- I know a bit about this subject
- I have a solid understanding of the relevant laws and survivors' legal rights
- I'm a housing law expert

Objectives

By the end of this presentation you will be better able to:

- Outline specific and unique considerations for survivors of domestic violence, dating violence, stalking, sexual assault, and human trafficking
- Summarize the changes to housing law in the Violence Against Women Act (VAWA) and other federal law protections;
- Discuss information provided and answer questions.

SAFE HOUSING PARTNERSHIPS

The website for the Domestic Violence and Housing Technical Assistance Consortium

UNDERSTANDING THE INTERSECTIONS

BUILDING PARTNERSHIPS

EMPLOYING KEY APPROACHES

PUBLIC POLICIES

- Data, infographics, literature reviews, and reports that describe the intersections between domestic violence, sexual assault, homelessness, and housing
- Strategies for building effective and sustainable partnerships across systems and case studies of successful collaborations
- In-depth resource collections organized around four key approaches to addressing and preventing housing instability among survivors
- Access to relevant federal laws, regulations, and policies

Have questions? Need TA? Want training?
Contact the Consortium directly through the site!

Domestic Violence and Housing Technical Assistance Consortium
www.safehousingpartnerships.org



Special Considerations for Survivors of DV

- DV can often have negative economic and criminal consequences on a survivor. The perpetrator may take out credit cards in a survivor's name (coerced debt), 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 (nuisance ordinances).
- Protections ensures that federally covered housing providers do not deny tenancy or occupancy rights based solely on these adverse factors



Sexual Violence and Housing


- Terminology: Sexual assault, sexual violence, sexual harm
- Sexual violence can
 - occur anytime, anywhere, and anyone can cause sexual harm;
 - create situations of housing instability and homelessness immediately and throughout the lifespan;
 - occur in situations of housing instability and homelessness;
 - create a need for housing protections or housing assistance to gain or maintain housing.

IDENTIFYING HUMAN TRAFFICKING

SEX TRAFFICKING

Potential venues:

- ⑩ Street prostitution
- ⑩ Online exploitation/pornography
- ⑩ Massage parlors
- ⑩ Apartment brothels
- ⑩ Hotel/motel brothels
- ⑩ Forced marriage
- ⑩ Child marriage
- ⑩ Child sex tourism




**SEX WORK
DOES NOT
EQUAL SEX
TRAFFICKING**

LABOR TRAFFICKING

Potential venues:

- ⑩ Agricultural industry
- ⑩ Restaurants
- ⑩ Farms
- ⑩ Hotels and hospitality industry
- ⑩ Nail salons and hair braiding salons
- ⑩ Factories
- ⑩ Domestic work



ANYWHERE
THAT WORK
HAPPENS
HUMAN
TRAFFICKING
CAN HAPPEN

KEY QUESTIONS TO KEEP IN MIND

EXPECTATIONS VS. REALITY

- ⑩ Was the job what you expected?
- ⑩ Was the pay what you expected?

LABOR VIOLATIONS/CONDITIONS

- ⑩ Were your earnings withheld to pay back a debt or kept for you?
 - Paid Overtime?
 - What were your working conditions like?

TRAVEL TO THE U.S.

- ⑩ How did you decide to come to the US?
- ⑩ Were your documents taken from you?

SELF-PETITIONING UNDER VAWA: REQUIREMENTS

- ⑩ Spouse, Parent or Child of a USC or LPR
 - Spouse- Good Faith Marriage (not just for immigration status)
 - Parent or child- by birth or adoption
- ⑩ Resided with abuser (any amount of time, includes visitation)
- ⑩ Battery or Extreme Cruelty
- ⑩ Good Moral Character
- ⑩ Eligible for Housing under Sec. 214, per 2016 memo.

VAWA Overview

- VAWA provides housing protections for survivors of domestic violence, sexual assault, dating violence, and stalking who are applying for or living in federally assisted housing.
- The law applies to a survivor (actual or perceived) regardless of sex, gender identity, sexual orientation, disability or age. Adopted in 2005 expanded in 2013. 2022 reauthorization in effect Oct. 2022.
- VAWA does not apply to market-rate rental housing.

What Programs are Covered?

HUD Programs

• Public Housing	• § 236 Multifamily rental housing
• Section 8 vouchers, EHV's	• § 221d3/d5 Below Market Interest Rate (BMIR)
• Project-based Section 8	• HOME
• Section 202 Supportive Housing for the Elderly	• HOPWA (Housing Opportunities for People with AIDS/HIV)
• Section 811 Supportive Housing for People with Disabilities	• McKinney-Vento Homelessness Programs (includes Emergency Solutions Grant; Continuum of Care)
• Housing Trust Fund	

Department of Agriculture

- Rural Development (RD) Multifamily, RD Voucher Program**

Department of Treasury/IRS

- Low Income Housing Tax Credit (LIHTC)

VAWA Covered New Programs

- Section 202 Direct Loan program*
- Transitional Housing Assistance for Homeless Veterans*
- Grant programs for homeless veterans with special needs*
- Supportive Services for Veteran Families (SSVF)*
- Veterans Affairs Supportive Housing (VASH)*
- National Housing Trust Fund*
- Transitional Housing Assistance Grants for victims of domestic violence, dating violence, sexual assault, and stalking*
- Rural Development Vouchers*

VAWA Covered New Programs

Also includes a “catch all” provision:

- “[A]ny other Federal housing programs providing affordable housing to low- and moderate-income persons by means of restricted rents or rental assistance, or more generally providing affordable housing opportunities, as identified by the appropriate agency through regulations, notices, or any other means”

Survivors' Rights Under VAWA

- Cannot be denied admission, be evicted, or have their assistance terminated because of the violence committed against them;
- Must get a notice of housing rights under VAWA;
- Can request that an abuser be removed from the lease and housing, where applicable;
- Must be given time to establish eligibility;
- Survivors with “Section 8” Housing Choice Voucher assistance can move with continued assistance.

Protected Survivors Under VAWA

- **Domestic violence**
- **Sexual assault**
- **Dating violence**
- **Stalking**
- **Human Trafficking**

HOUSING AND URBAN DEVELOPMENT & HUMAN TRAFFICKING

HUD RECOGNIZING HUMAN TRAFFICKING

- ⑩ HUD Homelessness Definition
- ⑩ Solicitation Language
- ⑩ Emergency Housing Vouchers
- ⑩ Stability Vouchers

VAWA: 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.
 - Adverse factors resulting from the abuse (e.g., poor credit history or criminal history)

31 VAWA: Eviction

- May not evict a tenant on basis they are or have been a victim.
- No person may be evicted or have assistance terminated based solely on criminal activity that is **as a direct result of** their status as a survivor.
- An incident of violence is neither a “serious or repeated lease violation” by the victim or “good cause” for evicting the victim
- Must honor court orders re: property rights

- **May** still evict the survivor if the landlord / PHA can demonstrate an “actual and imminent threat” to other tenants or employees at the property
- **Threat** must consist of physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm.

33 “Actual and Imminent Threat”

- Factors to be considered include:
 - Duration of the risk
 - Nature and severity of the potential harm
 - Likelihood harm will occur
 - Length of time before the harm would occur
- Eviction should occur only if there is no other action that would reduce or eliminate threat

³⁴VAWA: 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.

Documentation

Types of Documentation

1. VAWA self-certification form

- **HUD Form 5382 (for all HUD programs)**

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 service 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)*

- Emails, text messages, voicemails, social media postings

37 VAWA: HUD Form 5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

Form HUD-5382
(06/2017)

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TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____
2. Name of victim: _____
3. Your name (if different from victim's): _____
4. Name(s) of other family member(s) listed on the lease: _____
5. Residence of victim: _____
6. Name of the accused perpetrator (if known and can be safely disclosed): _____
7. Relationship of the accused perpetrator to the victim: _____
8. Date(s) and time(s) of incident(s) (if known): _____
10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Form HUD-5382
(06/2017)

VAWA: Proving Violence

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- PHA or landlord is free to take tenant at their word, or can ask tenant to prove the violence.
- Any request by PHA or owner for proof must be in writing.
- Tenant has 14 business days from PHA or landlord's request to provide proof.
- PHA or landlord is free to grant extension if tenant needs more time.

Who Chooses the Type of Documentation?

- **Survivor gets to choose documentation type.**
- Housing providers must accept whatever documentation the survivor provides.
- **Only exception:** When there is conflicting evidence, housing providers can ask for third-party documentation.
 - Housing providers can require 30-days to submit third-party documentation and grant extensions.
 - Housing providers cannot engage in additional fact-finding to determine if someone is “really” a survivor (e.g. conducting interviews w/ neighbors, employers, etc.).

Emergency Transfers

- Seek an emergency transfer to another unit – providers must have emergency transfer plans;
- Same documentation requirements;
- Can cover moving costs;
- Can offer an admissions preference;
- Partnerships are key here;
- Emergency Housing Vouchers as a transfer option.

41 VAWA: Removing the Abuser

- A public housing authority or landlord may “bifurcate” or split a lease to evict abuser while allowing victim to stay
- If the individual who is evicted is the sole tenant eligible to receive the housing assistance, the PHA or landlord must provide the remaining tenant **90 days or until lease expiration (with possible 60-day extension)** to move or establish eligibility for another covered housing program.
- The landlord must follow federal, state, and local law in evicting the abuser
- In the Housing Choice Voucher program, if a family breakup results from the violence, “the PHA **must** ensure that the victim retains assistance.”

VAWA 2022 Updates

- Federal Compliance Reviews
- Retaliation
- Transitional Housing Grants
- Remaining federal housing programs
- Right to report crime
- Training/Technical Assistance

VAWA 2022: Sexual Violence and Housing

- VAWA 2022 made it clear that survivors of sexual assault can be served with homelessness assistance funding regardless of where the incident occurred. (“Hearth Act” amendment)
- Don’t have to be fleeing physical harm that occurred in home to be eligible for this funding.
- More information forthcoming from The National Sexual Assault & Housing Collaborative.

VAWA 2022, cont'd – protection from retaliation

VAWA 2022 also protects tenants and program participants exercising their rights or participating in processes related to VAWA housing protections from retaliation by their landlords.

VAWA 2022, cont'd – *NEW* Office

- Established within HUD a Gender-based Violence Prevention Office with a VAWA Director.
 - The Director of Gender Based Violence Prevention and Equity has been named, but still waiting for the VAWA Director;
 - Coordination Role within HUD and other federal agencies.

Federal Fair Housing (FHA)

- Protects all individuals from housing discrimination (not limited to federally funded)
- Survivors are not specifically named but because the vast majority of survivors are female, discrimination against survivors of violence can constitute sex discrimination

Survivors Rights Under FHA

- Be free from discrimination when seeking housing to buy or rent;
- Be protected from eviction;
- Be treated the same as other tenants or occupants by a housing provider; and,
- Request a reasonable accommodation, to ensure that someone with a disability has equal opportunity to use and enjoy housing.

Discrimination examples:

- Treating women differently because of their status as survivors.
 - Ex: A landlord evicts a rape survivor after someone assaulted her in her unit and she called the police, but does not evict another tenant after a stranger broke into his unit and he called the police.
 - Ex: A landlord evicts a DV survivor because of damage caused to her unit by her abuser, but does not evict a male tenant due to damage caused by a break-in.
- A neutral policy that negatively affects gender-based violence survivors may violate the FHA because of its disparate impact on women.
 - Ex: Women are disproportionately affected by a housing provider's zero-tolerance for violence/crime policy.

Materials and Resources

National Toolkits/Brochures

- Community Based Advocate Toolkit: How to make sure your clients have safe housing
 - https://www.nationalallianceforsafehousing.org/wp-content/uploads/2019/05/Survivor-Housing-Protections_NonLegalAdvocateToolkit-Final-5-14-19.pdf
- NHLP, VAWA Brochure (English, Spanish forthcoming)

HUD Forms

- HUD Self Certification Form 5382 (comes in 15 different languages) [https://www.hud.gov/sites/documents/5382.](https://www.hud.gov/sites/documents/5382)
- HUD Notice of Occupancy Rights Form 5380
<https://www.hud.gov/sites/documents/5380.docx>

National Resources

- **American Civil Liberties Union Women's Rights Project, Safe at Home:** [aclu.org/other/safe-home](https://www.aclu.org/other/safe-home)
- **National Housing Law Project** nhlp.org/OVWgrantees
- **National Alliance for Safe Housing** nashta.org
- **National Domestic Violence Hotline:** (1-800-799-7233, 1-800-787-3224 (TTY) thehotline.org
- **National Law Center on Homelessness and Poverty** nlchp.org
- **National Network to End Domestic Violence** nnedv.org
- **Rape, Abuse & Incest National Network** rainn.org
- **Safe Housing Partnerships (clearinghouse of information)** safehousingpartnerships.org

National Resources

- **Resource Sharing Project** resources on sexual assault and housing: resourcesharingproject.org
- **National Sexual Violence Resource Center (NSVRC)** resources on housing and sexual violence: nsrvc.org
- **OVW Resource Page:** tribal, state, and territory sexual assault coalitions: justice.gov/ovw/localresources.
- **Freedom Network USA:** freedomnetworkusa.org
- **Collaboration Toolkit for Anti-Trafficking and Housing Programs:** freedomnetworkusa.org/uploads/toolkit
- **Housing Options for Survivors of Trafficking:** freedomnetworkusa.org/housing-options
- **An Introduction to Human Trafficking for Housing Providers:** <https://youtu.be/To2RTrbwS60>

State and Local Resources

- **State & Local housing protections for survivors in your area**, see NHLP's [Housing Rights of Domestic Violence Survivors: A State and Local Law Compendium](#)
- **Womenslaw.org**: A project of the National Network to End Domestic Violence, provides state-specific legal information and resources for survivors of domestic violence. womenslaw.org
- For more information about state or local legal services, please visit: <https://www.ncsc.org/topics/legal-services/legal-aid-pro-bono/state-links.aspx> or <https://www.lawhelp.org/find-help>
- For more information about state domestic violence coalitions, please visit: <http://bit.ly/NNEDVcoalitions>

Contact Information

Kate Walz – kwalz@nhlp.org

D. Fox – dfox@nnedv.org

Rebekah Moses – rmoses@gbvconsult.org

Carrie Eischeid –
carrie@freedomnetworkusa.org

Karlo Ng – karlo.ng@hud.gov

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Questions?

