
Protecting Survivors of Domestic and Sexual Violence during COVID-19: A Q&A for Housing Providers

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As the COVID-19 epidemic continues, stay-at-home orders are making violence in homes more frequent and dangerous. Individuals experiencing domestic or sexual violence cannot alert authorities because they are trapped at home with their perpetrators who can easily track their activities through technology, such as home cameras.

Housing providers can play a critical role in helping tenants who experience domestic or sexual violence access safe housing and supportive services. This Q&A provides information for owners and landlords on how to help tenants experiencing domestic or sexual violence during this crisis.

This Q&A is provided for informational purposes only and is not legal advice.
Housing providers who need legal advice should consult an attorney.

1. I am a property manager. Recently, one of my maintenance workers said that she heard a lot of yelling, crying, and things breaking from one of our apartments. She thinks that it's domestic violence. What should I do?

Housing providers must be careful not to jeopardize the safety of tenants who are already experiencing violence at the hands of perpetrators who are living with them.

We encourage housing providers to seek support and guidance by contacting their state, local, or territory [domestic violence](#) and [sexual violence](#) coalitions or local domestic and sexual violence programs. Housing providers can work with survivor advocates at the coalitions and programs to determine safe approaches to help tenants.

2. What is the federal eviction moratorium (also known as the “CDC eviction moratorium”), and who is covered?

The Centers for Disease Control and Prevention (CDC) has issued a temporary eviction [moratorium](#) to prevent the further spread of COVID–19. This federal eviction moratorium temporarily halts residential evictions from **September 4, 2020 through December 31, 2020**.

The moratorium protects “covered persons” from eviction. To qualify as a “covered person,” someone must: (1) be a “tenant, lessee, or resident of a residential property,” and (2) must provide a declaration, made under penalty of perjury, to the landlord or owner.

The CDC eviction moratorium declaration outlines the required criteria that the tenant must meet to qualify for the protections under the federal eviction moratorium order. The declaration is available [here](#), and is translated into multiple languages [here](#).

We strongly encourage landlords to notify their tenants about all applicable eviction moratoriums, and to share copies of the CDC eviction moratorium declaration. Note that use of the CDC declaration form is not required. Any written document that contains the same information as the CDC declaration form, and that is sworn under penalty of perjury, can comply with the moratorium.

Furthermore, the CDC has clarified in a subsequent [FAQ](#) that the declaration “may be signed and transmitted either electronically or by hard copy,” and further that declarations in non-English languages comply with the CDC order “if they contain the information required to be in a declaration, are signed, and include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration.”

For public housing agencies and private landlords receiving HUD subsidies, HUD has more information about the CDC eviction moratorium available [here](#) and [here](#).

Note that there are criminal penalties outlined in the CDC order for housing providers who fail to comply with the order.

3. What types of housing are covered by the CDC eviction moratorium?

The CDC eviction moratorium applies to all standard rental housing, whether publicly or privately operated. This includes houses, buildings, mobile homes, land in a mobile home park, or other dwellings that are rented for residential purposes.

The moratorium does not apply to accommodations rented to temporary guests or seasonal tenants (e.g., hotel and motel rooms and guest houses used on a temporary or seasonal basis) as defined by state, tribal, territorial, or local law.

4. In addition to the CDC moratorium, what other COVID-19 tenant protections may apply?

States and localities may have their own additional [eviction and utility shutoff moratoriums](#) in place. Importantly, the CDC order provides a baseline level of protection for residential tenants against eviction, such that additional state, local, territorial, or tribal protections apply **in addition to** the CDC order.

Some tenants living in certain federally assisted or subsidized housing may still have specific protections under the previously passed federal CARES Act, such as the requirement that

tenants in CARES Act [covered properties](#) receive a 30-day eviction notice. Certain eviction restrictions related to forbearances on federally subsidized multifamily properties may also apply.

Housing providers should seek legal counsel if they have questions about what COVID-19 eviction protections are in effect.

5. Can individuals be evicted or have their housing subsidy terminated because of domestic or sexual violence committed against them?

No. Generally speaking, tenants who experience domestic or sexual violence **cannot** be evicted, be removed from a housing program, or have their rental assistance terminated because of the violence committed against them, as doing so can constitute [unlawful sex discrimination since most survivors are women](#). This extends to evictions, removals, or terminations due to property damage caused by the perpetrator.

Tenants experiencing violence also cannot be evicted or removed from their programs for seeking help by calling [911 or emergency services](#). Further, housing providers cannot treat survivors more harshly than they treat other tenants. These protections for survivors apply independently of the current public health crisis. Additional housing protections may apply under the [Violence Against Women Act](#) for survivors living in federally assisted housing, and under [state and local](#) landlord-tenant laws that prohibit eviction due to being a victim of domestic or sexual violence.

In many states, housing providers can remove a tenant from a unit (also known as a lease bifurcation) for committing violence against another tenant. This means that if a perpetrator is also a tenant, the perpetrator can be removed from the lease or program. This promotes the safety of the survivors as well as other tenants.

Housing providers must follow federal, state, and local laws when bifurcating leases.

6. Can individuals who perpetrate domestic or sexual violence still be evicted during the CDC moratorium?

Yes. The [CDC's eviction moratorium](#) prohibits landlords or owners of residential property from evicting persons covered by the moratorium who meet certain criteria. However, individuals can still be evicted for: (1) engaging in “criminal activity on the premises”; (2) “threatening the health or safety of other residents”; (3) damaging or posing “an immediate or significant risk” to property; (4) violating health and safety regulations; or (5) violation of any other contractual obligation “other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).” Therefore, covered persons can be evicted for **perpetrating** criminal acts against other tenants, such as domestic or sexual violence. However, as discussed in Question 5, ***the victims of the abuse or violence must not be evicted.***

Rental units may also be subject to a [state or local eviction moratorium](#). Many of these state and local moratoriums include exceptions for criminal activity such that perpetrators of domestic and sexual violence can still be evicted during the crisis.

7. A tenant says that his ex-girlfriend threatens to kill him and has the key to his apartment. He wants to get his locks changed. Can we change locks during this crisis?

Yes. [Many states and localities](#) have laws that permit tenants who have experienced domestic or sexual violence (and other forms of violence) to change their locks for safety reasons. These housing protections continue to be in effect. Therefore, housing providers must adhere to their obligations outlined in these laws.

When changing locks, housing providers should take proper precautions following the Center for Disease Control (CDC) guidelines and the direction of their [local health department](#) officials.

If the unit is subsidized by a recipient or subrecipient of Continuum of Care (CoC) funds (for example, Rapid Re-Housing), the CoC funding recipient or subrecipient can help pay for the costs of safety measures, such as lock changes.

8. A tenant says that his roommate raped him. He wants to terminate his lease and move out of his unit for safety reasons. What do I do?

[Many states and localities](#) have laws that permit tenants who have experienced domestic or sexual violence (and other forms of violence) to end their leases early for safety reasons. These laws continue to be in effect. Therefore, housing providers must adhere to their obligations outlined in these laws.

For federally subsidized housing providers, housing protections under the [Violence Against Women Act](#) (VAWA) remain in effect. These providers must have an emergency transfer policy in place that is operable for tenants who need to move quickly for safety reasons. Tenants' requests for emergency moves and other safety measures under VAWA, such as lease bifurcations, must continue to be prioritized. Housing Choice Voucher holders in this situation can terminate their leases early and obtain emergency moving papers to find another safe unit.

Housing providers can facilitate emergency transfers by allowing survivors to bypass waiting lists through adopting admissions preferences for individuals who have experienced domestic or sexual violence and other forms of violence. In particular, public housing agencies can use their [COVID-19 waiver authority](#) granted by HUD to amend their waiting list policies and adopt these admissions preferences for survivors.

Furthermore, [Continuum of Care \(CoC\) and Emergency Solutions Grant \(ESG\) waiver authority](#) allows recipients and subrecipients to waive the limit on using grant leasing funds to pay above fair market rent, which could help expedite finding a safe unit for survivors. Additionally, CoC funding recipients or subrecipients can pay for moving costs, storage, and security deposits for new units.

9. A tenant with a Housing Choice Voucher does not feel safe because of her abusive husband. She wants to port (use her voucher to relocate) to another building located in another county, but the head of household on the voucher is her husband. Can she still port with the voucher?

Yes. For federally subsidized housing providers, housing protections under [Violence Against Women Act](#) (VAWA), a survivor who is not the head of the household can request that the voucher be transferred solely to their name because of the violence committed against them. Once the voucher is transferred, the survivor can work with the public housing agency to port to a unit in another county. During this crisis, HUD strongly encourages public housing agencies to continue to process requests for incoming and outgoing portability moves remotely.

10. How do I collect documentation from a tenant who says that they are or have experienced domestic or sexual violence?

Housing providers **are not required** to request written proof from tenants who ask for specific safety measures because of violence committed against them.

If a federally subsidized housing provider subject to the Violence Against Women Act (VAWA) does request written documentation, the general rule is that survivors must be able to provide a [self-certification](#) (Form HUD-5382 is available in [15 different languages](#)). The self-certification form is much more readily accessible than other forms of documentation that cannot be obtained because of the current COVID-19 crisis, such as police reports and restraining orders.

Importantly, for safety reasons, housing providers must not demand that a survivor obtain a restraining order or file a police report against the perpetrator as a condition of remaining in their housing.

If a situation arises where there is conflicting information (e.g., two household members are accusing each other of perpetrating violence), housing providers are allowed to ask for third-party documentation of the violence as outlined in VAWA.

11. Are there steps I should take to protect the confidentiality and privacy of tenants who have experienced domestic or sexual violence?

Yes. Under the [Violence Against Women Act](#) (VAWA), federally subsidized housing providers must adhere to certain confidentiality requirements, such as not sharing the survivor's information about the domestic or sexual violence with others and not placing the information in a shared database.

HUD has issued [guidance](#) to public housing agencies (PHAs) regarding the confidentiality of survivors during COVID-19. HUD states that PHAs and owners must not leave voicemail messages with confidential information regarding the violence, or messages with the victim's household. HUD also advises housing providers to refrain from sending mail that references the violence to the survivor's address, if the perpetrator may have access to the survivor's mail. Instead, HUD offers possible practices such as using a PHA post office box to receive correspondence; using separate phone lines for specific purposes; and avoiding mentioning survivor advocacy organizations in communications with survivors.

In general, these are best practices that all housing providers should follow to ensure the safety of tenants, regardless of whether housing providers participate in a federal housing program. Housing providers should also work with advocates at their state, local, or territory [domestic violence](#) and [sexual violence](#) coalitions to determine how best to protect the privacy of survivors.

12. A tenant is having trouble paying rent because her partner, who controlled the family's finances, has been removed from the unit because of domestic violence. Is there rental assistance that is available to her?

Maybe. Some states and localities have created [emergency rental assistance programs](#) for tenants who cannot pay rent during COVID-19. For information specific to survivors experiencing housing instability during COVID-19, see [these resources](#).

Additionally, housing providers should remind any federally subsidized tenants (whose subsidy levels are determined by the household's income) that they can request an interim

recertification if they have experienced a decrease in income during COVID-19, so that their rental assistance can be adjusted accordingly. HUD permits tenants to self-certify for recertifications or provide documentation for recertification by email or other electronic delivery. Federally subsidized housing providers should encourage tenants who have experienced income loss to recertify their income as soon as possible. Note that HUD has stated that the economic stimulus payments under the CARES Act are NOT considered part of a household's income for federally subsidized tenants.

Furthermore, assuming the abuser had income of their own, the survivor may have also experienced a substantial loss of household income for the purposes of the CDC eviction moratorium eligibility criteria.

Housing providers are encouraged to enter into repayment agreements with tenants who owe outstanding rental payments. In doing so, housing providers are urged to ensure that the tenant is not required to pay an unsustainable portion of their income going forward, and to agree to work with tenants to obtain any rental assistance made available in the future. HUD has created a [resource](#) for tenants behind on their rent regarding discussing repayment plans with their landlords. Note that this resource was created before the CDC eviction moratorium.

HUD's Emergency Solutions Grant (ESG) funds, including ESG funds through the CARES Act to recipients and subrecipients, can be used for [emergency rental assistance for survivors of domestic violence](#). ESG funds can also be used for rent arrears. Additionally, Continuum of Care (CoC) Rapid Re-Housing funds can be used for rental assistance. The target usage of ESG and CoC funds for rental assistance differs, directly connecting to the type of household served, but survivors could be eligible for either.

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