

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

**Nov. 2024**

# 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.

# HUD's VAWA Implementation

- Rulemaking – possible NPRM before end of year
- 2023-2024 Information Collection Notice - \*new\* forms
- March 2023 Information Collection Notice
- FHEO Notice on VAWA Complaints
  - HUD VAWA complaint form
- Including Survivors of Human Trafficking
- GAO Emergency Transfer Report
- Further upcoming guidance or regs?

# 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.



# New Definition of Domestic Violence

- VAWA 2022 amended the definition of domestic violence to include economic abuse committed under the family or domestic violence laws of the jurisdiction receiving grant funding for purposes of services;
- Jan. 4, 2023 Interim Guidance: HUD interprets the core VAWA definition more broadly to include technological abuse, economic abuse, and a pattern of any other coercive behavior committed, regardless whether or not it constitutes a felony or misdemeanor crime.
- “...can be reasonably interpreted to be covered by HUD’s existing VAWA regulations which applies to covered housing programs and covered housing providers.”
- Notes that further guidance forthcoming.

# HUD RECOGNIZING HUMAN TRAFFICKING

- HUD Homelessness Definition
- Solicitation Language
- Emergency Housing Vouchers
- 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)

# VAWA: Notice of Occupancy Rights

## Notice -

All tenants/program participants – regardless of survivor status - must get a Notice of Occupancy Rights (HUD Form 5380) and VAWA Self Certification Form (HUD Form 5382) (*available in 15 different languages*):

- When an applicant is denied admission/assistance.
- When someone is admitted/given assistance.
- With any notification of eviction/assistance termination.
- Who is to provide the notice depends on the particular housing program. HCV landlords are not required to issue the notice per the 2017 FINAL Rule but case law says otherwise.

# 13 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

# 14 VAWA: Eviction

- **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.

# 15. “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, including a family break up or emergency transfer.

# 16 Adverse Factors

- Prohibits denying assistance or admission, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.
- Adverse factor, on its surface, may appear unrelated to VAWA violence/abuse and may seem like a legitimate reason that a housing provider can take an adverse action.
- Adverse factor may be due to an underlying experience with violence, including rental history, criminal history, and credit history.
- Covered housing provider must consider the information once notified of adverse factor.
- **Notice PIH Notice 2017-08/Notice H 2017-08**



# 17 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.

# 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

# 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;
- Internal transfers the real mandate.
- Same documentation requirements;
- Can cover moving costs;
- Can offer an admissions preference;
- Partnerships are key here;
- PHAs can elect to offer vouchers as a transfer option;
- GAO study on Emergency Transfers.

# 23 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 Enforcement Authority

VAWA 2022 - The Secretary of Housing and Urban Development and the Attorney General shall implement and enforce this chapter consistent with, and in a manner that provides, the rights and remedies provided for in the Fair Housing Act.

# VAWA Compliance Reviews

- Federal agencies had until March 2024 to incorporate this new federal compliance review process into existing processes through regulations. Not done.
- GAO study on HUD emergency transfers noted two interim compliance review processes:
  - MFH – management and occupancy review VAWA questions
  - PIH – sample of PHAs subject to a VAWA compliance checklist

# VAWA Complaint Process

## FHEO Notice 2023-01:

- Authority derived from the FHA enforcement scheme;
- Violations as of October 1, 2022 (or continuing through) can be brought through the FHEO complaint process;
- Same SOL rules: 1 year from termination of conduct, continuing violation, or permissive jurisdiction after one year.
- HUD FHEO complaint form updated to include VAWA;
- Important for advocates to support survivors because the form is confusing. Advocates can draft their own complaint without form.
- Advisable to bring any additional claims (i.e., FHA, Title VI, Sec. 109, 504, ADA where appropriate).

# VAWA Complaint Process, Cont'd

## Who Can File A Complaint:

- A person who has been injured or believes that they will be injured by a violation of VAWA;
- Includes family members;
- *Organizations that represent and support survivors;*
- *Legal aid or fair housing programs who are rooting out VAWA related discrimination.*

# VAWA Complaint Process, Cont'd

## Complaint Process:

- New trauma informed team of 10 investigators will handle VAWA cases throughout the country;
- VAWA complaints cannot be referred to state or local fair housing bodies, but other counts (i.e., disability) could;
- HUD VAWA website provides several settlements.

# VAWA 2022, cont'd – protection from retaliation

- Applies to PHAs, owners, managers of assisted housing under a covered housing program.
- Cannot discriminate against anyone who exercises VAWA rights or testified, assisted, or participated in any manner related to VAWA housing rights.
- Cannot coerce, intimidate, threaten, interfere with, retaliate against someone because they exercise rights/ protections, who has exercised rights/ protections, aided or encouraged someone else to exercise rights/ protections.
- This includes:
  - Intimidating or threatening any person because they assisted or encouraged a person entitled to claim these rights; and
  - Retaliating against any person because they participated in any investigation or action to enforce these rights.
- Interference likely typical in VAWA violation cases.

# VAWA 2022, cont'd – Rt To Report Crime

## **Came in response to crime-free programs and nuisance ordinances:**

- Protects right of landlords, homeowners, tenants, residents, occupants, guests, and applicants for housing to seek law enforcement or emergency assistance or on the basis on criminal activity of which they are a victim or otherwise not at fault.
- Cannot penalize or take action against, including:
  - (A) actual or threatened assessment of monetary or criminal penalties, fines, or fees;
  - (B) actual or threatened eviction;
  - (C) actual or threatened refusal to rent or renew tenancy;
  - (D) actual or threatened refusal to issue an occupancy permit or landlord permit; and
  - (E) actual or threatened closure of the property, or designation of the property as a nuisance or a similarly negative designation

# VAWA 2022, cont'd – Rt To Report Crime

- Not limited to VAWA covered persons or covered housing providers.
- Reporting and certification requirement by state and localities receiving CDBG funding.
- Subject to regulations, but jurisdictions, since Oct. 2022, must review their policies & not violate VAWA.
- HUD may expand to other funding programs. (i.e., HOME, ESG, HOPWA).
- HUD CPD Fact Sheet. Incorrectly limited to survivors.
- DOJ Aug. 2024 letter on CFNOs – does note VAWA covered housing programs conflict with CFNOs.



# 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. Can be due to trauma or lack of safety.
- Safe is defined to more accurately reflect survivor experiences.
- Subject to regulations, but ESG/CoC recipients can implement now.

# 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 and career positions recently filled.
  - Coordination Role within HUD and other federal agencies.
  - [Interagency Statement on VAWA](#) Sept. 2024 – first time the Treasury Department and Department of Veterans Affairs acknowledged VAWA's applicability.

# Materials and Resources

# National Toolkits/Brochures

- **HUD's new resource page.**
- 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](https://www.nationalallianceforsafehousing.org/wp-content/uploads/2019/05/Survivor-Housing-Protections_NonLegalAdvocateToolkit-Final-5-14-19.pdf)
- [NHLP OVW VAWA Page](#)

# 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](https://www.nhlp.org/OVWgrantees)
- **National Alliance for Safe Housing** [nashta.org](https://www.nashta.org)
- **National Domestic Violence Hotline:** (1-800-799-7233, 1-800-787-3224 (TTY)) [thehotline.org](https://www.thehotline.org)
- **National Law Center on Homelessness and Poverty** [nlchp.org](https://www.nlchp.org)
- **National Network to End Domestic Violence** [nnedv.org](https://www.nnedv.org)
- **Rape, Abuse & Incest National Network** [rainn.org](https://www.rainn.org)
- **Safe Housing Partnerships (clearinghouse of information)** [safehousingpartnerships.org](https://www.safehousingpartnerships.org)

# National Resources

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



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# Questions?

