

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

State Laws and Legislation to Remove Legal Barriers in Housing for Battered Tenants

Domestic and sexual violence are leading causes of homelessness nationally. Between 22% and 57% of homeless women report that domestic violence is the immediate cause of their homelessness in varying regions, and between 50% and 100% of homeless women have experienced domestic or sexual violence at some point in their lives. Some victims and their families lose their homes when they flee abuse. Other survivors become homeless after being wrongfully or discriminatorily evicted or denied housing as a result of the violence against them. Many of these housing abuses occur when victims are tenants.

The following is a compilation of existing state laws and pending state legislation that are designed to counteract some of the common legal problems in housing that victims face. The chart is also indexed by the type of provision. The list includes measures that: prohibit housing discrimination against victims of abuse; allow a battered tenant to terminate the lease early to flee violence; provide a defense to eviction for battered tenants in housing court; prohibit landlords from refusing to permit battered tenants to summon police or emergency assistance; requiring landlords to change the locks of a battered tenant; and other provisions.

Current State Laws: By Type of Law

	State	Citation	Summary
Housing discrimination	North Carolina	N.C. GEN STAT. § 42-47(a)	Prohibits a landlord from terminating a tenancy, failing to renew a lease, or otherwise retaliating in the rental of a dwelling based on the tenant or household member's status as a victim of domestic violence or because the tenant terminated a lease under the state's early termination provision (see below).
	Rhode Island	R.I. GEN. LAWS §§ 34-37-1, -2, -3, -4	Prohibits housing discrimination against victims of domestic abuse by requiring that a landlord or mortgage lender may not terminate a lease or otherwise discriminate against a tenant or applicant because that tenant, applicant, or member of his or her household is, has been, or is threatened with being the victim of domestic abuse or has obtained, sought, or is seeking a restraining order. The law also allows a landlord to evict any household member who is committing domestic abuse.
	Washington	WASH. REV. CODE ANN. § 59.18.580	Prohibits housing discrimination against victims of domestic violence, sexual assault, and stalking. A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking. In addition, a landlord may not discriminate against a tenant or applicant because the tenant or applicant has terminated a rental agreement under the state's early lease termination provision. The tenant or applicant may bring a civil action and recover damages, court costs, and reasonable attorney's fees under the statute.

Early lease termination by battered tenant	Colorado	COLO. REV. STAT. § 32-12-402(2)	Permits a victim of domestic violence to terminate his or her lease immediately and pay only the next month's rent without further liability. The tenant must inform the landlord that he or she is a victim of domestic violence and must provide the landlord with a court order or a police report from within the last 60 days that documents the incidence of domestic violence.
	North Carolina	N.C. GEN STAT. § 42-45.1	Allows any tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, or stalking to terminate his or her rental lease by providing the landlord with at least 14 days written notice. The notice must be accompanied by a copy of a court-issued protection order or a police report regarding the incident of domestic violence, sexual assault, or stalking. These provisions may not be waived or modified by agreement of the parties.
	Oregon	OR. REV. STAT. § 90.453	A tenant who provides verification that he or she has been the victim of domestic violence, sexual assault, or stalking in the past 90 days may terminate his or her lease upon 14 days' written notice to the landlord. The tenant is not subject to any fee solely because of the termination of the rental agreement and is not liable for rent or damages to the dwelling beyond that date.
	Texas	TEX. PROP. CODE ANN. § 92.016	If a tenant or an occupant is a victim of domestic violence and presents the landlord with a copy of a protection order or court-issued temporary injunction, the tenant may terminate the lease immediately and will not incur liability after he or she moves out of the dwelling.
	Washington	WASH. REV. CODE ANN. § 59.18.352 (Criminal threats, generally)	A tenant or co-tenant who has been threatened by another tenant may terminate his or her rental agreement without further obligation if: 1) the tenant informs the landlord that he or she has been threatened; 2) the threatening tenant was arrested; and 3) the landlord does not file an unlawful detainer action against the threatening tenant within seven days of notification of the arrest. What constitutes a "threat" is broadly defined by the criminal code at WASH. REV. CODE § 9A.04.110(25). A legislative intent section describes the factual and policy rationales behind the law's enactment.
	Washington	WASH. REV. CODE ANN. § 59.18.575 (Specific to victims of domestic violence, sexual assault, and stalking)	If a tenant notifies the landlord in writing that the tenant or another household member was the victim of domestic violence, sexual assault, or stalking, and either 1) the tenant has a valid protection order against the perpetrator, or 2) the tenant has a written record of the tenant's report of the incident to a certain third party acting in his or her official capacity (law enforcement officer, court employee, clergy member, attorney, social worker, mental health professional, licensed counselor, or advocate at an agency that assists victims of domestic violence), the tenant may terminate the rental agreement with no further obligation after the end of the month when the incident occurred. The tenant must request to terminate the rental agreement within 90 days of the act giving rise to the protection order or report. A landlord may not discriminate against an individual because he or she has terminated a lease under this provision; see WASH. REV. CODE ANN. § 59.18.580, described above.

Eviction defense – general	Colorado	COLO. REV. STAT. § 13-40-104	Provides the victim of domestic violence with a defense against a landlord’s proceeding for unlawful detention when the domestic violence was the cause of the alleged unlawful detention and where abuse has been documented by a police report or civil or emergency protection order.
	Minnesota	MINN. STAT. § 504B.285	In an eviction proceeding, a tenant may raise as a defense his or her right to contact police or emergency services (see “Calling Police,” below) in response to domestic abuse when the eviction is intended as a penalty for the tenant’s good faith attempt to secure that right.
	Washington	WASH. REV. CODE ANN. § 59.18.580	Allows a tenant who has been discriminated against in violation of WASH. REV. CODE ANN. § 59.18.580(1) (prohibiting housing discrimination) to use the fact of that discrimination as a defense in an unlawful detainer action initiated by the landlord.
Eviction defense – criminal activity	Colorado	COL. REV. STAT. ANN. § 13-40-107.5(5)(b)(I)	Provides a defense against eviction for a victim of domestic violence when the landlord seeks to evict the victim on the grounds that the tenant or the tenant’s guest committed a crime or dangerous act on or near the premises. To invoke the defense, the tenant’s status as a victim of domestic violence must be documented by the filing of a police report or the issuance of a restraining order.
	Iowa	IOWA CODE §§ 562A.27A & 562B.25A(3)	Provides a defense against eviction for victims of domestic violence when the landlord seeks to evict the victim on the grounds that the tenant’s activities create a “clear and present danger” to others. To invoke the defense, a victim of domestic violence must provide written proof that the activities creating the danger were conducted by a person other than the tenant, and that the tenant either sought a protection order against the person creating the danger or reported the person creating the danger to a law enforcement agency in an effort to initiate criminal action. The landlord must give the tenant written notice of the intention to terminate the tenancy and must inform the tenant in writing of the existence of the specific defenses described above.
	Louisiana	LA. REV. STAT. ANN. §40:506(D)	Provides a defense against eviction for victims of domestic violence when the landlord seeks to evict the victim on the grounds that the tenant or the tenant’s guests has engaged in unlawful criminal behavior. Housing authorities may not terminate the tenancy of a residency on the grounds of domestic abuse, dating violence, or family violence against a resident. Housing authorities may, however, terminate the tenancy of the perpetrator of the abuse or violence. Additionally, no person may be considered a guest or invitee of a member of a household (for the purposes of the landlord’s termination of the tenancy for criminal behavior) without the consent of the head of household or a member of household. Consent is automatically withdrawn when a guest or invitee is a perpetrator of an act of domestic abuse, dating violence, or family violence.
	New Mexico	N.M. STAT. ANN. § 47-8-33(J)	Provides a defense from eviction for a victim of domestic violence if the landlord tries to evict the tenant on the grounds that the tenant committed or allowed another person to commit a substantial violation of the lease. If the tenant had applied for or received a restraining order previously, or as a result of the incident leading to the eviction notice, the tenant may not be evicted. In all other cases where domestic violence was raised as a defense, the court has the discretion to evict the resident accused of the violation while allowing the remaining tenant(s) to continue to reside in the unit.

Eviction defense – criminal activity (continued)	Washington	WASH. REV. CODE ANN. § 59.18.130 (8)(b)(ii)	Under Washington law generally, a landlord may evict a tenant who has engaged in activities “immediately hazardous” to the safety of others (because they entail physical assaults or use of a deadly weapon and result in arrest). This statute provides that no part of that section may be used to terminate a tenancy or evict the victim of a physical assault or the threatened use of a firearm or other deadly weapon.
	Wisconsin	WIS. STAT. ANN. § 106.50(5m)(d)	Prohibits a landlord from using an individual’s status as a victim of domestic abuse to claim that the individual’s tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property. Under state law, a landlord would otherwise be able to deny housing to an individual whose tenancy was such a threat.
Calling police	Arizona	ARIZ. REV. STAT. ANN. § 33-1315	A rental agreement may not contain provisions that waive or limit a tenant’s right to summon a peace officer or emergency assistance in response to domestic violence, or that allow a tenant to agree to pay monetary or other penalties for summoning such assistance in response to domestic violence.
	Colorado	COL. REV. STAT. § 38-12-401	Residential rental or lease agreements may not contain provisions that allow the landlord to terminate the lease or to impose a penalty on a tenant for calls made to a peace officer or other emergency assistance in response to a domestic violence situation. This right to contact police or emergency services is non-waivable.
	Minnesota	MINN. STAT. § 504B.205	A landlord may not bar or limit a tenant’s right to call for police or emergency assistance in response to domestic abuse and may not impose a penalty on the tenant for exercising that right. This right to contact police or emergency services is non-waivable. If the landlord violates the right, the tenant may bring a civil action against the landlord and recover the greater of actual damages or \$250, plus reasonable attorney’s fees.
	Texas	TEX. PROP. CODE ANN. § 92.015	A landlord may not prohibit or limit a tenant’s right to summon police or emergency services in response to family violence and may not impose monetary penalties on any tenant who invokes that right. Any provision in the lease limiting this right is void. The tenant whose right has been violated may recover against the landlord: civil penalty equivalent to one month’s rent; actual damages incurred from the violation; court costs (including reasonable attorney’s fees); and injunctive relief.
Lock changes	North Carolina	N.C. GEN STAT. §§ 42-47(b), (c), and (d)	Requires the landlord to promptly change the locks of a tenant who requests it and who has provided actual or written notice of the tenant’s status as a victim of domestic violence, sexual assault, or stalking to the landlord. If the alleged perpetrator of the violence is a tenant in the same unit as the victim, the tenant must provide the landlord with a copy of a court order requiring the perpetrator to move out of the dwelling. The landlord has no duty to provide keys or access to the perpetrator during the period when the move-out order is in effect.

Lock changes (continued)	Oregon	OR. REV. STAT. § 90.459	If a tenant gives actual notice to his or her landlord that he or she has been a victim of domestic violence, sexual assault, or stalking, the landlord must change the tenant's locks or give the tenant permission to change the locks upon the tenant's request. If the perpetrator of the violence is also a tenant in the victim's unit, and the victim has a court order requiring the perpetrator to move out of the unit, the landlord has no duty to allow the perpetrator access to the unit or the perpetrator's personal property within the unit and is exempt from liability from the perpetrator for so doing.
	Utah	UTAH CODE ANN. § 57-22-5.1	Allows a victim of domestic violence, stalking, sexual abuse, dating violence, or burglary to present evidence of those acts (documented by a protection order or police report) to his or her landlord, at which point the landlord must change the tenant's locks.
	Virginia	VA. CODE ANN. § 55-225.5 & VA. CODE ANN. § 55-248.18:1	If a tenant provides his or her landlord with a court order granting the tenant possession of the dwelling to the exclusion of one or more co-tenants, the landlord must install a new lock or other security devices in the dwelling or permit the tenant to do the same. The cost will be charged to the tenant at the actual cost paid by the landlord. The landlord may not provide a copy of any keys to the dwelling to any individual excluded by the court order. These provisions are not applicable when the court order granting possession was issued ex parte.
	Washington	WASH. REV. CODE ANN. § 59.18.585	If a tenant provides the landlord with a copy of a court order giving him or her possession of a dwelling to the exclusion of one or more co-tenants, the landlord must change the lock on the dwelling and is prohibited from providing new keys to the excluded tenant.
Eviction reporting by public housing authority	California	CAL. HEALTH AND SAFETY CODE § 34328.1	Each housing authority must provide an annual report of its complete activities for the year and recommendations for needed legislation. The statute requires that such reports include data on termination of tenancies of domestic violence victims residing in housing authority units and the housing authority's Section 8 voucher properties, whether or not the termination was based in whole or in part on activity related to the domestic violence. The report must also specify steps that the housing authority has taken to assist the victim prior to the termination, as well as (if known) the victim's subsequent housing arrangements.
Possession of property and exclusion of abuser	Louisiana	LA. REV. STAT. ANN. § 6:2136(A)(2)	In a proceeding for a domestic violence protection order, a judge may grant possession of residential housing to a victim of domestic violence who has been awarded temporary custody of the minor children born of both parties. The judge may exclude the abuser from the residence even if the residence is solely owned by the abuser.
Preference on public housing waiting list	North Carolina	Senate Bill 1029 (2005 Session) (signed by governor)	Homeless individuals and victims of domestic violence, sexual assault, or stalking must be given preferential status on waiting lists for public housing.

Current State Laws: By State

	Type of law	Citation
Arizona	Calling police	ARIZ. REV. STAT. ANN. § 33-1315
California	Eviction reporting by public housing authority	CAL. HEALTH AND SAFETY CODE § 34328.1
Colorado	Early lease termination Eviction defense – general Eviction defense – criminal activity Calling police	COLO. REV. STAT. § 32-12-402(2) COLO. REV. STAT. § 13-40-104 COLO. REV. STAT. § 13-40-107.5(5)(b)(I) COLO. REV. STAT. § 38-12-401
Iowa	Eviction defense – criminal activity	IOWA CODE §§ 562A.27A & 562B.25A(3)
Louisiana	Eviction defense – criminal activity Possession of property and exclusion of abuser	LA. REV. STAT. ANN. §40:506(D) LA. REV. STAT. ANN. § 46:2136(A)(2)
Minnesota	Eviction defense – general Calling police	MINN. STAT. § 504B.285 MINN. STAT. § 504B.205
New Mexico	Eviction defense – criminal activity	N.M. STAT. ANN. § 47-8-33(J)
North Carolina	Housing anti-discrimination Early lease termination Lock changes Preferences on public housing waiting list	N.C. GEN STAT. § 42-47(a) N.C. GEN STAT. § 42-45.1 N.C. GEN STAT. §§ 42-47(b), (c), and (d) Senate Bill 1029 (2005 Session) (signed by governor)
Oregon	Early lease termination Lock changes	OR. REV. STAT. § 90.453 OR. REV. STAT. § 90.459
Rhode Island	Housing anti-discrimination	R.I. GEN. LAWS §§ 34-37-1, -2, -3, -4
Texas	Calling police Early lease termination	TEX. PROP. CODE ANN. § 92.015 TEX. PROP. CODE ANN. § 92.016
Utah	Lock changes	UTAH CODE ANN. § 57-22-5.1
Virginia	Lock changes	VA. CODE ANN. § 55-225.5 and VA. CODE ANN. § 55-248.18:1
Washington	Housing anti-discrimination Early lease termination Eviction defense – general Eviction defense – criminal activity Lock changes	WASH. REV. CODE ANN. § 59.18.580 WASH. REV. CODE ANN. § 59.18.352; WASH. REV. CODE ANN. § 59.18.575 WASH. REV. CODE ANN. § 59.18.580; WASH. REV. CODE ANN. § 59.18.130(8)(b)(ii) WASH. REV. CODE ANN. § 59.18.585
Wisconsin	Eviction Defense – Criminal Activity	WIS. STAT. ANN. § 106.50(5m)(d)

Pending State Legislation: By Type of Provision

	State	Citation	Summary
Housing anti-discrimination	Hawaii	H.B. 2021, 22nd Leg. (Haw. 2004)	Amends the state fair housing law to prohibit discrimination against victims of domestic violence (and discrimination based on source of income) in any real estate transaction. Previously introduced bills include S.B.2464 & H.B.2121, 21st Leg. (Haw. 2002).
	Kansas	H.B. 2864, 80th Leg. (Kan. 2004)	Amends the state fair housing law to prohibit discrimination against victims of domestic violence in any real estate transaction.
	Massachusetts	Senate Bill 793	A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's status as a victim of domestic violence or based on the tenant's termination of a lease under the early lease termination procedure described below. A tenant screening service provider may not include in an oral or written report to a landlord information regarding acts of domestic violence, the tenant's status as a victim of domestic violence, or the tenant's prior early termination of a lease under the early termination provisions.
	New York	S.B. 4112 & A.B. 6282, 228th Ann. Leg. Sess. (N.Y. 2005)	Amends Executive Law S296 to include status as a victim of domestic violence to the list of bases that may not be lawfully relied on when denying an individual the right to purchase, rent, lease, or inhabit housing accommodations. These bills prohibit housing discrimination against victims of domestic violence and stalking "as documented by the filing of a police report, the issuance of an order of protection," or "verification of consultation with" a police officer, health care provider, court employee, clergy member, attorney, social worker, rape crisis counselor, or domestic violence advocate. The bill prohibits any person or entity from obtaining or providing information relating to the status of a person as a victim of domestic violence or stalking. Similar bills were previously introduced as S.B. 4812 and A.B. 8135 in 2003.
	New York City	Intro 305 of 2004 (N.Y. City Council)	This local bill prohibits discrimination against victims of domestic violence, sexual assault, or stalking in the sale, rental, or lease of a dwelling.
Early lease termination by battered tenant	Kansas	H.B. 2864, 80th Leg. (Kan. 2004)	Exempts domestic violence victims from a provision of landlord-tenant law prohibiting a tenant from terminating a lease because of a condition caused by the tenant, person, or animal on the premises with the tenant's consent. Allows a battered tenant to terminate a month-to-month tenancy upon written notice to the landlord. The bill defines "victim of domestic violence" as any person "who can prove the existence of domestic violence" by providing a court order, a police record, documentation that the abuser has been convicted under relevant statutes, medical documentation of the abuse, a statement by a counselor, social worker, health care provider, clergy member, shelter worker, legal advocate, domestic violence or sexual assault advocate, or any other professional, or a sworn statement from the person attesting to the abuse.
	Massachusetts	Senate Bill 793	Allows a victim of domestic violence, rape, sexual assault, or stalking to terminate a tenancy by providing the landlord with a copy of a protection order, police report, or documentation of consultation with one of a variety of defined service providers, if it is within 90 days of the last reported incident of domestic violence. After terminating the lease, the tenant is free from liability for future rent and is entitled to a pro rata return of pre-paid rent.

Early lease termination by tenant (cont'd)	New York City	Intro 305 of 2004 (New York City Council)	This local bill allows a battered tenant to terminate the rental agreement without further obligation upon providing documentation of the violence, sexual assault, or stalking to the landlord.
Eviction defense – general	Washington	S.B. 5905 (59th Leg., 2005 Reg. Sess.)	Provides a defense to eviction for domestic violence victims based on the criminal acts or acts of domestic violence perpetrated by a co-tenant.
Calling police	Arizona	H.B. 2593 (47th Leg., 2005 Sess.)	Makes technical changes to the state’s current law on calling police (see above).
	Iowa	S.F. 208/H.F. 361/H.F. 444/H.F. 554, 81st Gen. Ass. (Iowa 2005)	Prohibits a landlord from raising rent, decreasing services, or from bringing or threatening to bring an action for possession when a tenant has called police or emergency services in response to a domestic violence situation. Prohibits a landlord from retaliating against a tenant of a dwelling unit or a mobile home space by terminating a rental agreement, raising rent, or decreasing services after a tenant has received police or emergency assistance in response to a domestic violence situation.
Battered tenant’s rights on appeal	Pennsylvania	House Bill 1396 (2005 Session)	Gives victims of domestic violence 30 days, instead of the usual 10 days, to appeal a judgment of a state district court in matters regarding possession of real property or recovery of rent due. The appeal can operate as a “supersedeas” if the battered tenant pays any rent due in cash into an account with the prothonotary within 10 days after the date each payment is due.

Pending State Legislation: By State

	Type of bill	Bill number
Arizona	Calling police	House Bill 2593 (47th Legislature, 2005 Session)
Hawaii	Housing anti-discrimination	H.B. 2021, 22nd Leg. (Haw. 2004)
Iowa	Calling police	S.F. 208/H.F. 361/H.F. 444/H.F. 554, 81st Gen. Ass. (Iowa 2005)
Kansas	Housing anti-discrimination Early lease termination	H.B. 2864, 80th Leg. (Kan. 2004)
Massachusetts	Housing anti-discrimination Early lease termination	Senate Bill 793
New York	Housing anti-discrimination	S.B. 4112 & A.B. 6282, 228th Ann. Leg. Sess. (N.Y. 2005)
New York City	Housing anti-discrimination Early lease termination	Intro 305 of 2004 (New York City Council)
Pennsylvania	Battered tenant’s rights on appeal	House Bill 1396 (2005 Session)
Washington	Eviction defense – general	Senate Bill 5905 (59th Legislature, 2005 Regular Session)

For additional information, please contact Naomi Stern, nstern@nlchp.org, or Terri Keeley, tkeeley@nlchp.org, Staff Attorneys with NLCHP’s Domestic Violence Program, at 202-638-2535. Last revised November 2005.