



Leaving your housing after a crime:

**For advocates assisting victims of domestic violence,
sexual assault and stalking**

This booklet is made possible by the Civil Legal Aid for Victims of Crime Initiative.

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Anyone can leave their apartment if they want to move. However, if you do not do follow the law, you may owe rent and fees after you move out, and there may be harm to your credit. If you get evicted or sued because you stopped paying rent, there will be a public record of the eviction. The public record could make it harder to find a new apartment. If you live in public or subsidized housing, or have a voucher, it may take a long time to get affordable housing again if you are evicted or leave without given the legally required notice.

Victims of crimes like domestic abuse, sexual assault and stalking can break their lease or transfer to a new unit in public or subsidized housing without financial harm or harm to their credit if they follow certain rules.

These rules come from state and federal laws that protect victims of domestic abuse, sexual assault, stalking and sometimes dating violence. The state law is “MA Act Relative to Housing Rights for Victims of Domestic Violence, Sexual Assault and Stalking” (MA law) and the federal law is the Violence Against Women Act (VAWA). These laws protect everyone. If you follow them, you can move to a new unit even if you are in the middle of your lease. You do not have to pay extra money for breaking your lease. You are not evicted, so your credit report will not show anything bad about you having to leave your apartment. Victims of other crimes do not have special laws that help them move.

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Am I the victim of domestic violence?

Survivors of domestic violence are the victims of things like threats, fear and harm. There is not one definition of domestic violence. Different states and different laws define “domestic violence” differently.

For the federal housing laws in this booklet domestic violence covers victims of crimes of violence.¹ Massachusetts housing and restraining order laws define domestic violence as when abusers:

- actually caused,
- attempted or
- placed fear of physical harm or
- forced involuntary sexual acts.²

As commonly defined, domestic violence is when there is a pattern of abusive behavior in a relationship used by one partner to maintain power and control over another current or former intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone. If you are the survivor of domestic violence you can break your lease or transfer to a new unit in public or subsidized housing without financial harm or harm to your credit if you follow certain rules.³

Am I the victim or survivor of sexual assault?

Sexual assault victims survived a nonconsensual sexual act that is against federal⁴ or state law.⁵

If you are the recent survivor of sexual assault you can probably break your lease or transfer to a new unit in public or subsidized housing without financial harm or harm to your credit. You must follow certain rules.

¹ 34 U.S.C. §12291 (a)(8). Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the [victim](#), by a person with whom the [victim](#) shares a child in common, by a person who is cohabitating with or has cohabitated with the [victim](#) as a spouse or intimate partner, by a person similarly situated to a spouse of the [victim](#) under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or [youth](#) victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

² M.G.L c. 186 § 23. "Domestic violence", the occurrence of 1 or more of the following acts between family or member of a household:

- (i) attempting to cause or causing physical harm;
- (ii) placing another in fear of imminent serious physical harm;
- (iii) causing another to engage involuntarily in sexual relations by force, threat or duress.

³ U.S. Department of Justice, Office on Violence Against Women handout:
<https://www.justice.gov/file/29836/download>.

⁴ 34 U.S.C. §1229 (29). The term “[sexual assault](#)” means any nonconsensual sexual act proscribed by Federal, tribal, or [State](#) law, including when the [victim](#) lacks capacity to consent.

⁵ M.G.L c. 186 § 23. "Sexual assault", as set forth in sections 13B, 13B1/2, 13B3/4, 13F, 13H or 13K of chapter 265 or section 35A of chapter 272.

Am I the victim of stalking?

A stalking survivor reasonably fears for their own safety or that of others or suffer substantial emotional distress because of conduct directed at them⁶ Or someone acted over time in a way that alarms or annoys someone and reasonably could cause emotional distress and threaten harm.⁷

If you are the recent survivor of stalking you can probably break your lease or transfer to a new unit in public or subsidized housing without financial harm or harm to your credit. You must follow certain rules.

Am I the victim of dating violence?

Most victims of dating violence can move with the special rights victims of domestic violence have. They can move legally in the middle of their tenancy or lease.

- Victims of sexual assault by a boyfriend or girlfriend can break their tenancy or lease legally.
- Victim of non-sexual violence from a boyfriend or girlfriend **who live together** (in the same household) can also break their tenancy or lease and move legally⁸.
- Victims of non-sexual violence harmed by a boyfriend or girlfriend you **do not** live with can break their lease legally.^{9 10}

Can I break my lease with the MA law and VAWA protections?

Victims of domestic violence, sexual assault and stalking have the right to leave their apartment without financial or credit harm.

The MA Law protects **every** victim of domestic violence, sexual assault and stalking in Massachusetts. But tenants whose housing is federally funded are usually also protected by VAWA. See the section called *Tenants who live in federally funded housing* below. You can move without financial cost and without harm to your credit because of these protections.

⁶ 34 U.S.C. §1229 (30). VAWA- The term “[stalking](#)” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

⁷ M.G.L c. 186 §23. "Stalking", stalking as set forth in section 43 of chapter 265 or criminal harassment as set forth in sections 43 or 43A of chapter 265.

⁸ VAWA protects victims of dating violence. The state law does not, but domestic violence includes non-family members of a person’s household (so those they live with whether or not a boyfriend/girlfriend).

⁹ VAWA protects those on federal housing.

¹⁰ For those in private or state funded housing most dating violence meets the criteria of stalking under M.G.L. c. 265 § 43 which does not have a household/family requirement: “(a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking

Can I break my lease?

Yes. A victim of domestic violence, sexual assault and stalking can end their rental agreement and leave the premise after **written notification** to the owner.¹¹ You can do this:

- up to 3 months after an incident *or*
- at any time the tenant is reasonably in fear of imminent serious physical harm.

You must move within 3 months of giving notice to the landlord.

What is the benefit of breaking my lease using the MA law?

If a judge evicts you or you leave your apartment without notice, your landlord will probably take you to court for missed rent payments. Your eviction case for non-payment of rent will be a public record. Having the protections of the MA law means that you can leave in the middle of your lease under the law. You will not be evicted, there will be no notation on your credit report about leaving early, and you will not owe rent for the time after you leave.¹²

How do I break my lease using the MA Housing Rights for Victims Act

If you are the victim of domestic violence, rape, sexual assault, stalking all you have to do to break your lease is give your landlord written notice you will be leaving and then leave within three months of giving that notice. See a sample letter to give your landlord [here](#).

Do I have to give proof?

The landlord does not have to ask for proof, but can. If the landlord asks for proof, you can provide any of the following documents:

- A valid 209A or 258E Order protecting the tenant, co-tenant or any member of the household
- A court record of law enforcement record of domestic violence, rape, sexual assault, stalking.
- Written verification from a qualified third party under the pains and penalties of perjury. The victim must also read it, agree with it and sign it.
 - The letter can be from any of the following qualified third parties: a licensed medical care provider; an active licensed social worker; a licensed mental health professional; a sexual assault counselor; a domestic violence victims' counselor, a police officer or law enforcement professional (for example a district attorney, assistant district attorney, a victim-witness advocate, probation or parole officer); an employee of the Victims Services Unit of the department of criminal justice information services; an employee of the department of children and families or the department of transitional assistance, or a manager or designated domestic violence or abuse advocate within either department.

¹¹ M.G.L. 186 §24.

¹² The statute is not completely clear about the date of the last rent owed. However, legislative intent is. See this [article](#). As of June 2019 there is no appellate authority to resolve the issue of the arguably ambiguous statutory language. Advocates across the state have successfully argued that tenants are not required to pay rent after the quitting date if leaving for safety reasons pursuant to GL c. 186 s 24. The quitting date is the later of when the person actually leaves or gives notice of leaving.

- The letter must say that the victim reported the incident to the agency and must include the name of the organization, agency, clinic or professional service provider, the date of the incident, and the name of the perpetrator (if known).

What about paying rent?

The landlord should not charge the tenant rent after the **quitting date**. The quitting date is the **later** of the days the tenant vacated the unit, or the date the tenant gave notice of vacating, if they already moved.

What about my pre-paid last month's rent and security deposit?

If you paid all the rent due through the quitting date, the landlord should give the "last months rent" (prepaid rent) when you leave. If there is another tenant who is still living in the apartment you must wait for the end of the tenancy to get your security deposit back. If you were the only tenant, and the apartment is empty, you should get the security deposit within 30 days of the quitting date.

For Tenants in Public or Building-based Subsidized Housing

If you break your lease and just move out of your apartment you will probably lose your public or subsidized housing. **Instead ask for:**

- **a transfer** to another public housing building, another subsidized building or
- convert your housing subsidy to a mobile voucher.

For tenants in federally funded housing

VAWA and state law protect tenants living in federally funded housing. If you do not know which type of housing you live in, see the pamphlet *What type of housing do I live in*, look at your lease, or contact your property manager and ask.

Who does VAWA protect?

VAWA protects victims of domestic violence¹³, dating violence¹⁴, sexual assault¹⁵, and stalking.¹⁶ It also protects the victim's immediate family members and other household members (even if they are not related to the victim by blood or marriage). VAWA also protects victimized immediate family and household members of a tenant. This is an "affiliated individual".

VAWA protects those even not married to or living with the abuser.

¹³ Domestic Violence-Any felony or misdemeanor crimes of violence by a current or former spouse, intimate partner, person with whom the victim shares a child, person who is or has cohabitated with the victim. 34 U.S.C. §1229(8).

¹⁴ Dating Violence-Violence committed by a person who is/was in a social relationship of intimate nature with the victim. 34 U.S.C. §1229(10)

¹⁵ Sexual Assault- Any non-consensual sexual act prohibited by law. 34 U.S.C. §1229 (29)

¹⁶ Stalking -Any conduct directed toward a specific person that would cause a reasonable person to fear for safety or suffer substantial distress. 34 U.S.C. §1229(29).

Which public housing programs does VAWA apply to?

VAWA only applies to **federally subsidized** housing. It includes both tenant-based and unit-based subsidy programs.¹⁷

Does VAWA help me if I have to move quickly to escape violence?

Yes. Housing authorities and landlords must allow transfers to other federally assisted housing.¹⁸ They must provide an internal transfer when a safe unit is available (tenant decides what is safe.) They must also have a policy for, and make ‘reasonable efforts’ to transfer you to an external unit when necessary. Ask the housing authority or landlord to help you transfer.

You can transfer if you:

- reasonably believe you will be hurt by violence, or
- if you have been a victim of sexual assault that occurred on the property up to 90 days before the request.

The housing authority or landlord can ask for written certification of the violence or stalking.¹⁹ If the housing authority or landlord asks for proof, the tenant give the certification within 14 business days of the request. A court can decide which of the two people on a lease gets to keep the right to a subsidy or public housing unit.²⁰ The court can decide at a restraining order, family, housing or other court proceeding.

¹⁷ For example, VAWA covers the following housing programs:

- Public housing
- Section 8 Housing Choice Vouchers
- Section 8 project-based housing
- Section 202 housing for the elderly
- Section 811 housing for the disabled
- Section 236 multifamily rental housing
- Section 221(d)(3) Below Market Interest Rate (BMIR)
- HOME
- Housing Opportunities for People with Aids (HOPWA)
- McKinney-Vento Act programs
- Rural Development multifamily housing
- Low-Income Housing Tax Credit (LIHTC) housing.

Violence Against Women Act 34 U.S.C.A. §1249 (Federal Regulations found at 24 C.F.R. §§5.2001-5.2011

¹⁸ Housing providers must have an emergency transfer plan. 34 U.S.C. §12491(e).

¹⁹ 34 U.S.C. §12491(C)(1).

²⁰ Housing providers must honor court Orders and Orders addressing the distribution or possession of property among household members. 34 U.S.C. §12491 (C)(i).

Note: Even if you have a priority reason for a transfer you may not be able to move right away. There may be a waitlist even for emergency transfers. You can only move when a proper sized unit is available.

Pay the rent at your old apartment while you wait for an offer to transfer. Pay even if you went a shelter to get away from your abuser.

How do I certify the violence or stalking? Do I need a restraining order?

You do not need a restraining order. You can certify with a:

- HUD-approved **self-certification** forms from the housing authority (Form HUD-5382)
- Police or court record, or
- A letter or statement from a qualified third party like a DV counselor, attorney, medical care provider. The letter must say that the tenant is eligible for VAWA protection. The provider must sign the letter under the pains and penalties of perjury.²¹

Note: You do not need a restraining order to qualify. Housing agencies cannot and should not require a restraining order.

If you live in state funded public housing or subsidized housing

Ask if there is a plan that lets you transfer quickly if you live in project-based housing paid for by the Massachusetts Rental Voucher Program (MRVP).²² Each agency should have a list of emergency reasons to prioritize you for a transfer in its plan. Read your agency plan. Domestic violence and sexual assault are probably reasons for prioritized transfers.

Moving with a Voucher

If I have a mobile housing subsidy, can I move with my voucher?

Yes. Victims of domestic violence, sexual assault, stalking in **federally** funded housing can move with their voucher. You can move and keep your voucher, even in the middle of your lease.²³ You have the right to move even in the first year.²⁴

If you have a different mobile subsidy

- Read the administrative plan to understand if you can move with your voucher;

²¹ 34 U.S.C. § 12491(C)(3)/24 CFR 5.2005(a)(1)(ii).

²²The MRVP administrative plan calls for administrating agencies to have an Administrative Transfer Waiting List with an emergency preference. See the MRVP Administrative Plan at 1.6.13.

https://www.mass.gov/files/documents/2017/10/11/mrvpadminplan17.pdf?_ga=2.84448985.1757164566.1540139413-449055197.1526643504

²³ 42 U.S.C. § 1437f(r)(5)

²⁴ 42 U.S.C. §1437f(r)(5); Normally mobile voucher holders cannot move during the first year of their tenancy. But holders of Section 8, Massachusetts Rental Voucher Program (MRVP), or the Alternative Housing Voucher Program (AHVP) vouchers who are the victims of domestic violence, sexual assault or stalking can.

- If something is stopping you from moving, ask the housing authority if they will authorize an exception;
- If you have a disability and need to move because of something related to your disability ask for a reasonable accommodation, or
- Talk to a lawyer.

But how do I actually move?

Each program has different rules and timelines for moving with your voucher. Notify your leasing officer. Get the administrative plan from your housing agency. It will tell you the exact rules and process to move with your voucher. Follow the relocation and leasing requirements of the Housing Agency.

The order you do things is important. You do not want to give up your housing until you are sure you have a place to go.

What if I am not the victim of domestic violence sexual assault, or stalking?

You are not trapped and can move. But, there are not as many protections available to leave without harm to your credit, record or financial costs. See the Booklet: [Leaving your housing after a crime: Assisting victims of non-DV crimes](#) to learn more.

Relevant Laws and Acronyms

MA Act Relative to Housing Rights for Victims of Domestic Violence, Sexual Assault and Stalking- State law also called “MA Housing Rights for Victims Act.”

Violence Against Women Act- Federal law also called VAWA.

Massachusetts Rental Voucher Program- State housing subsidy program also called MVRP.

Housing Choice Voucher Program- Section 8 vouchers

Closing and Credits

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