

Showing Up for Survivors in Housing Work

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Agenda

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VAWA 2022 REAUTHORIZATION:
HOUSING PROVISIONS



TEXAS STATE LAW:
HOUSING RIGHTS & PROTECTIONS



CASE SCENARIOS

Mission

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The Texas Council on Family Violence (TCFV) is the only 501(c)(3) organization in Texas dedicated to protecting the rights of all communities and freedom of expression. With a statewide reach and significant impact, TCFV shapes public policy, equips service providers with essential tools, and initiates strategic prevention efforts. Since 1978, we have been a nationally recognized leader in our efforts to end family violence.



Violence Against Women Act (VAWA)

Overview of the VAWA
Reauthorization of 2022 +
Housing Provisions

Information about a survivor
belongs to the survivor!

VAWA Reauthorization 2022

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- ▶ The Violence Against Women Act (VAWA) is a federal law that was first passed in 1994
- ▶ Provides protections for survivors of domestic violence, dating violence, sexual assault, and stalking
- ▶ VAWA has been reauthorized 4 times since the original enactment (2000, 2005, 2013, 2022)
- ▶ 2022: Expands access to safety and support for all survivors and increases prevention efforts;
- ▶ Effective Date: October 1, 2022 - Reauthorized through 2027

VAWA Reauthorization 2022

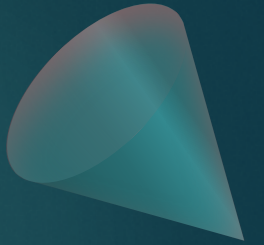
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- ▶ TITLE I — Enhancing Legal Tools to Combat Domestic Violence, Dating Violence, Sexual Assault and Stalking
- ▶ TITLE II – Improving Services for Victims
- ▶ TITLE III – Services, Protection, and Justice for Young Victims
- ▶ TITLE IV – Violence Reduction Practices
- ▶ TITLE V – Strengthening the Health Care System's Response
- ▶ **TITLE VI – Safe Homes for Victims**
- ▶ TITLE VII – Economic Security for Victims
- ▶ TITLE VIII – Safety for Indian Women
- ▶ TITLE IX – Office on Violence Against Women
- ▶ TITLE X – Improving Conditions for Women in Federal Custody
- ▶ TITLE XI – Law Enforcement Tools to Enhance Public Safety
- ▶ TITLE XIII – Other Matters
- ▶ TITLE XIV – Cybercrime Enforcement

New Domestic Violence Definition

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VAWA 2022 revises the definition of “domestic violence” and adds the definitions of “economic abuse” and “technological abuse.” HUD interprets its current regulatory definitions of “domestic violence” and “stalking” to include what is covered in these revised and new statutory definitions



VAWA Reauthorization 2022

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- ▶ TITLE I — Enhancing Legal Tools to Combat Domestic Violence, Dating Violence, Sexual Assault and Stalking
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- ▶ TITLE III – Services, Protection, and Justice for Young Victims
- ▶ TITLE IV – Violence Reduction Practices
- ▶ TITLE V – Strengthening the Health Care System's Response
- ▶ **TITLE VI – Safe Homes for Victims**
- ▶ TITLE VII – Economic Security for Victims
- ▶ TITLE VIII – Safety for Indian Women
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- ▶ TITLE X – Improving Conditions for Women in Federal Custody
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- ▶ TITLE XIII – Other Matters
- ▶ TITLE XIV – Cybercrime Enforcement

VAWA: Housing Provisions

- ▶ 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 regardless of sex, gender identity, sexual orientation, disability, or age.

VAWA Covered Housing Programs

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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 Housing Programs - New

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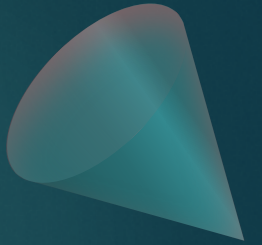
- Section 202 Direct Loan program
- Transitional Housing Assistance for Homeless Veterans
- Grant programs for homeless veterans with special needs
- Supportive Services for Veteran Families (SSVF)
- Veterans Affairs Supportive Housing (VASH)
- National Housing Trust Fund
- Transitional Housing Assistance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

Covered Housing Programs - New

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Also includes “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”



VAWA: Notice of Occupancy Rights

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- ▶ HUD Notice of Occupancy Rights From 5380
- ▶ Notice of VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking
- ▶ Available equally to all individuals regardless of sex, gender identity, or sexual orientation
- ▶ Explains rights under VAWA
- ▶ HUD Self Certification Form 5382 included with this notice (form to show that you are or have been a victim & that you wish to use your rights under VAWA)

VAWA: Notice of Occupancy Rights (Cont'd)

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- ▶ Protections for Applicants
- ▶ Protections for Tenants
- ▶ Removing the Abuser or Perpetrator from the Household (Bifurcation)
- ▶ Moving to Another Unit (Emergency Transfer)
- ▶ Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- ▶ Confidentiality
- ▶ Reasons a Tenant Eligible for Occupancy Rights Under VAWA May Be Evicted or Assistance Terminated
- ▶ Non-Compliance with The Requirements of the Notice (Filing a Complaint)

VAWA Survivors' Rights: Applicants

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- ▶ PHAs, landlords, and owners may not deny an applicant housing admission or assistance **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 Survivors' Rights: Tenants

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- ▶ 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

VAWA Survivors' Rights: Actual & Imminent Threat

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- 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

VAWA: Removing the Abusive Partner

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- ▶ 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: Emergency Transfers

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- 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
- Survivors with “Section 8” Housing Choice Voucher assistance can move with continued assistance

VAWA: Documentation

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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: HUD Form 5382

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**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.

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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.

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?

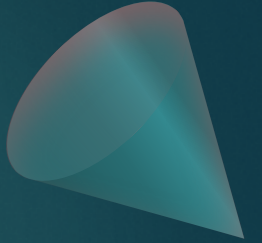
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- **Survivor gets to choose documentation type.**
- Housing providers must accept whatever documentation the survivor provides.
- **Only exception:** When there is conflicting evidence, housing providers can ask for third-party documentation.
 - Housing 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.).

VAWA Survivors' Rights: Confidentiality

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- ▶ 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.



VAWA Survivors' Rights: Eviction or Assistance Terminated

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- 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.
- Always consider alternatives to eviction

VAWA 2022 – TITLE VI – Safe Homes for Victims - Updates

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- ▶ Updates the definition of “covered housing program” for additional housing and homelessness programs
- ▶ Establishes a Gender-based Violence Prevention Office w/ VAWA Director
- ▶ Requires appropriate agencies to establish a process to review compliance with VAWA requirements
- ▶ Protects the right of landlords, homeowners, tenants, residents, occupants, guests, & applicants to report crimes

VAWA 2022 – TITLE VI – Safe Homes for Victims - Updates

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- ▶ Reauthorized funding for FY23-FY27 for transitional housing grants for victims
- ▶ Requires HUD to conduct a study to assess the availability & accessibility of housing & services for individuals experiencing homelessness or housing instability who are survivors of trafficking or at risk of being trafficked

VAWA 2022 – TITLE VI – Safe Homes for Victims - Updates

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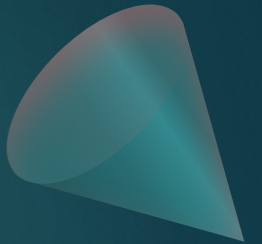
- ▶ Amends the definition of Category 4 homelessness under the McKinney-Vento Homeless Assistance Act to require HUD to consider homeless any individual who –

- (1) **is experiencing trauma or a lack of safety related to**, or fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against the individual or a family member in the individual's or family's current housing situation, including where the health and safety of children are jeopardized.
- (2) has no other safe residence; and
- (3) lacks the resources to obtain other safe permanent housing.

Protection from Retaliation

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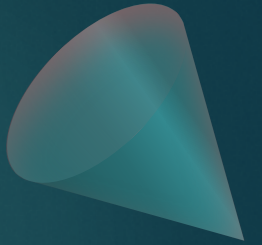
- Applies to VAWA covered programs
- Cannot discriminate against anyone who exercises VAWA rights or testified or assisted in any manner related to VAWA housing rights.
- Cannot coerce, intimidate, threaten, interfere with, or retaliate against someone because they exercise rights/protections, who has 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.



Right to Report Crime

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- 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 actual or threatened: penalties, fines, or fees; eviction; refusal to rent or renew tenancy; refusal to issue permits; closure of the property, or designation of the property as a nuisance.
- Not limited to VAWA covered persons or covered housing providers.
- Reporting and certification requirement by state and localities receiving CDBG funding.
- Jurisdictions must review their policies & not violate VAWA.



VAWA Complaint Process

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Office of Fair Housing and Equal Opportunity (FHEO)
Notice: FHEO-2023-01

- ▶ FHEO Enforcement Authority and Procedures: Violence Against Women Act 2022 (VAWA)
- ▶ Violations as of October 1, 2022 (or continuing through) can be brought through the FHEO complaint process
- ▶ Statute of Limitations: 1 year from termination of conduct, continuing violation, or permissive jurisdiction after one year

VAWA Complaint Process

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How to Report Housing Discrimination



Online

You can Report Housing Discrimination with FHEO online in [English](#) (also available in [Español](#), [中文](#), [Tiếng Việt](#), [한국인](#), [العربية](#), [Русский](#), [ፖርቱጋል](#), and [Soomaali](#))

[Report Now >](#)

or



Phone

We speak your language!
Talk with an FHEO intake specialist by calling:

1-800-669-9777

You can also call your regional FHEO office at the phone numbers on [this list](#).

or



Mail

You can print out [this form](#) (also available in [Español](#), [繁體中文](#), [Tiếng Việt](#), [한국인](#), [عربي](#), [Русский](#), [ፖርቱጋል](#), and [Soomaali](#)) and mail it to your regional FHEO office at the address on [this list](#).

Online hub + complaint form:

https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

HOUSING RIGHTS &
PROTECTIONS FOR
SURVIVORS OF
GENDER-BASED
VIOLENCE

Texas State Law

Texas State Laws: Property Code

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Victims of family violence have maintained a legal right to summon the police or emergency assistance without fear of penalty since 2003

Texas Property Code §92.015 – Sections (a) & (b):

- ▶ Extends this right to any tenant with a reasonable belief that an individual needs intervention or emergency assistance regardless of the reason
- ▶ A landlord may not prohibit or limit this right
- ▶ A lease is void if any provision attempts to waive this right or exempt any party from liability under this section

Texas State Laws: Property Code

Lease Termination for Family Violence, Sexual Assault, & Stalking

Texas Property Code §92.016 & §92.0161

- ▶ A victim of family violence, sexual assault, or stalking may have the right to terminate their lease

Texas State Laws: Property Code

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Lease Termination: Family Violence

Texas Property Code §92.016

A victim or parent/guardian of a victim of family violence may terminate their lease if they provide the following:

- ▶ Temporary injunction issued under Subchapter F, Chapter 6, Family Code
- ▶ Temporary ex parte order issued under Chapter 83, Family Code
- ▶ Protective order issued under Chapter 85, Family Code - OR
- ▶ Order of emergency protection

Texas Lease Termination Forms + Guide

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Lease Termination: Family Violence - Texas
Property Code §92.016

FORMS:

- ▶ 30-Day Notice to Vacate
- ▶ Third Party Certification From

GUIDE:

- ▶ Advocate Guide to Lease Termination

Texas State Laws: Property Code

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Lease Termination for Stalking, Sexual Assault, Sexual Abuse, or Attempted Assault or Abuse

Texas Property Code §92.0161

- ▶ A victim or parent/guardian of a victim of stalking, sexual assault, sexual abuse, or attempted assault or abuse that occurred at home or on the premises in the last 6 months may terminate once:
 - ▶ Specific documentation is provided (*specifics on next slide*)
 - ▶ Premises are vacated & 30 days expire

Texas State Laws: Property Code

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Cont'd - Lease Termination: Texas Property Code §92.0161

► Specific documentation includes:

- **Final Sexual Assault or Stalking Protective Order**
- **Documentation of the Assault or Abuse from one of the following:**
 - Licensed health care provider
 - Licensed mental health care provider
 - Victim advocate

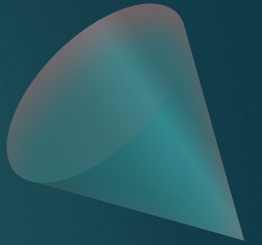
The premises are vacated, and 30 days expire

Texas State Laws: Tax Code

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A victim of family violence may request to restrict public access from appraisal records of their home address

Texas Tax Code §25.025



Case Scenarios

Resources

Resources

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- ▶ **National Domestic Violence Hotline** www.thehotline.org 1-800-799-SAFE (7233)
- ▶ **TCFV – Survivor Housing** <https://tcfv.org/housing/>
- ▶ **Safe Housing Partnerships (clearinghouse of information)**
safehousingpartnerships.org
- ▶ **National Housing Law Project** nhlp.org/OVWgrantees
- ▶ **National Alliance for Safe Housing** nashta.org
- ▶ **Resource Sharing Project** resources on sexual assault and housing:
resourcesharingproject.org
- ▶ **Collaboration Toolkit for Anti-Trafficking and Housing Programs:**
freedomnetworkusa.org/uploads/toolkit

HUD – VAWA Forms

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- ▶ Notice of Occupancy Rights under VAWA (Form HUD-5380 [PDF](#) | [DOCX](#))
- ▶ Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking (Form HUD-5381 [PDF](#) | [DOCX](#))
- ▶ Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, and Alternate Documentation (Form HUD-5382 [PDF](#) | [DOCX](#))
- ▶ Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking (Form HUD-5383 [PDF](#) | [DOCX](#))
- ▶ VAWA Emergency Transfer Data Collection (Form HUD-5384 [PDF](#) | [DOCX](#))

Thank You

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