

# DOMESTIC VIOLENCE AND HOUSING RIGHTS GUIDE

**Note:** This guide is intended to provide general legal advice regarding housing rights for domestic violence survivors in Idaho. If you need specific legal advice regarding your situation, please contact an attorney.

## VIOLENCE AGAINST WOMEN ACT (VAWA)

The [Violence Against Women Act \(VAWA\)](#) offers the greatest housing protections and options for domestic violence survivors in Idaho.

### WHAT ARE VAWA'S MAIN HOUSING PROTECTIONS?

- If you are applying for housing, you cannot be denied on the basis that you are a domestic violence survivor. [42 United States Code Section 14043e-11\(b\)\(1\)](#).
- You cannot be evicted or lose your federal rental assistance on the basis that you are a domestic violence survivor. [42 United States Code Section 14043e-11\(b\)\(1\)](#).
- Acts of violence against a domestic violence survivor **cannot** be considered serious or repeated violations of your lease or “good cause” for evicting you from your federally-assisted housing. [42 United States Code Section 14043e-11\(b\)\(3\)\(A\)](#).

### WHO DOES VAWA PROTECT?

VAWA provides protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or reside in federally-assisted housing. VAWA also covers the survivor’s immediate family members and other household members (even if not related to the survivor by marriage or blood). See generally [42 United States Code Section 14043e-11](#).

You do **not** have to be married to or living with your abuser to be protected by VAWA.

**Note:** VAWA does not protect tenants if the criminal incident for which they are being evicted from or denied housing is unrelated to their status as a domestic violence survivor. [42 United States Code Section 14043-e-11\(b\)\(3\)\(C\)\(ii\)](#)

### DO I HAVE TO PROVE THAT I AM A SURVIVOR?

Under VAWA, the housing authority or landlord may ask for documentation showing that you are a domestic violence survivor.

#### **There are three (3) methods of certification:**

- Complete a self-certification form. To access the form, click [here](#).
- Provide a letter signed by a victim service provider, attorney, or a medical or mental health professional who has helped you with the domestic violence; or,
- Provide a police report, court record, or administrative order related to the domestic violence.

See [42 United States Code Section 14043e-11\(c\)\(3\)](#).

# WHAT HOUSING DOES VAWA COVER?

## Department of Housing and Urban Development's Housing:

- Privately-owned properties operating with a HUD rental or interest rate subsidy program
- 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 Multi-Family Housing
- Section 211(d)(3) and 211(d)(5) Below Market Interest Rate (BMIR)
- HOME Investment Partnerships
- Housing Opportunities for People with Aids (HOPWA)
- McKinney-Vento Act Homeless Assistance Act

## Department of Treasury's Housing:

- USDA Rural Multi-Family Housing

## Department of Agriculture's Housing:

- Low-Income Housing Tax Credit (LIHTC)  
[42 United States Code Section 14043e-11\(a\)\(3\)](#)

**Note:** VAWA does **not** cover private housing that does not receive federal rental assistance.

# WHAT IF I WANT TO MOVE BEFORE MY LEASE ENDS?

If you have a Section 8 voucher, VAWA requires the housing authority to permit you to move and keep your voucher, even if your lease has not ended. See [42 United States Code Section § 1437f\(r\)\(5\)](#).

**Note:** You are allowed to transfer if you ask, and reasonably believe, that you are about to be hurt by more violence.

You may find helpful HUD VAWA Forms to give your landlord here: [HUD VAWA Forms](#)

# CAN I STAY IN THE HOUSING IF MY ABUSER IS EVICTED?

**Yes.** If someone living in your home uses violence against you, the housing authority or landlord can evict only your abuser. Under VAWA, you, your family, and other household members are allowed to stay in the home even if your abuser is evicted.

## What if Our Housing Assistance was Based on My Abuser's Eligibility?

If your federal housing assistance was based solely on your abuser's eligibility, then you have the right to prove your own eligibility to remain in the housing. If you or another member of your household cannot show eligibility, you must be given reasonable time to prove that you qualify for another federal housing program OR to find new housing. [42 United States Code Section 14043e-11\(b\)\(3\)\(B\)\(i\)-\(ii\)](#)

# IS THERE ANY WAY THAT I CAN BE EVICTED BECAUSE OF DOMESTIC VIOLENCE?

**Unfortunately, yes.** Despite VAWA's protections, a housing provider or landlord may still evict you if they can demonstrate that there is an "actual or imminent threat" to tenants or employees of the property if you are not evicted or your assistance is not terminated. [42 United States Code Section 14043e-11\(b\)\(3\)\(C\)\(iii\)](#).

In determining whether an individual poses an "actual and imminent threat", the following factors will be considered:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and,
- The length of time before the potential harm would occur.

[24 C.F.R. § 5.2003](#).

# ADDITIONAL PROTECTION FOR DOMESTIC VIOLENCE SURVIVORS IN IDAHO

## 1. EX PARTE PROTECTION ORDER: THE BASICS

Idaho has passed legislation creating the Ex Parte Protection Order. [Idaho Code Section 39-6308](#).

A court may grant this order when the petitioner (the person filing the petition) claims that "irreparable injury" could result from domestic violence if an order is not issued immediately. [Idaho Code Section 39-6308](#)(1). The respondent (the person that the petitioner seeks to restrain) does not have to be notified of this claim against them at the time it is filed.

### WHAT IS AN "IRREPARABLE INJURY"?

An "irreparable injury" includes, but is not limited to, situations where the respondent has threatened the petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner. [Idaho Code Section 39-6308](#)(3).

### HOW LONG DOES THE PROTECTION ORDER LAST?

An ex parte temporary protection order is effective for a fixed time and is not to exceed 14 days. [Idaho Code Section 39-6308](#)(5).

**Note:** The order may be reissued.

### LINK TO IDAHO DOMESTIC VIOLENCE CIVIL PROTECTION ORDER FORMS:

<https://courtselphelp.idaho.gov/Forms/protection>

### WHAT PROTECTION DOES THE ORDER GIVE ME?

The protection order often contains provisions that:

- Restrain the respondent from committing acts of domestic violence;
- Exclude the respondent from the shared dwelling or from the residence of the petitioner until further order of the court.

[Idaho Code Section 39-6308](#)(1)(a)-(b).

The court may also include provisions related to the protection of family and household members (which often involves contact restrictions) and preventing interference with the custody of minor children.

[Idaho Code Section 39-6308](#)(1)(c)-(f).

# 2. ADDRESS CONFIDENTIALITY PROGRAM (ACP): THE BASICS

Idaho has also passed legislation creating the Address Confidentiality Program. [Idaho Code Sections 19-5701 through 19-5708](#). This program creates a mail forwarding system to protect your **new** address and works by giving you a substitute mailing address to use with any state or local government agency. This ensures that state and local agencies can respond to requests for public records without disclosing your new location.

After successfully applying, either through an application assistant or by yourself, you will be given an **ACP authorization card** that identifies you as a program participant and authorizes the legal use of your substitute address.

## ACP PROGRAM ELIGIBILITY:

To be eligible for the ACP, an applicant must:

- Be a survivor of domestic violence, sexual assault, stalking, human trafficking, or malicious harassment. [Idaho Code Section 19-5703\(a\)\(i\)](#);
- Provide a sworn statement that they fear for their safety or the safety of their children. [Idaho Code Section 19-5703\(1\)\(a\)\(ii\)](#);
- Provide documentation of evidence (e.g., police records, court documents, etc.) [Idaho Code Section 19-5703\(2\)](#);
- Be at least 18 years old or a parent/guardian acting on behalf of a minor or incapacitated person. [Idaho Code Section 19-5703\(1\)](#).

## WHAT CAN THIS ADDRESS BE USED FOR?

You can use your substitute address for the following:

- Driver's licenses and State ID cards
  - Car registration
  - State benefits and services
- Note:** These services often include utility services. For example, Idaho Power and Century Link allow for ACP participants.
- Court records
  - Voter registration records
  - Schools and libraries

See [ACP Brochure](#)

## APPLICATION ASSISTANTS:

- [Faces of Hope](#)
- [Elmore County Domestic Violence Council](#)
- [Idaho Legal Aid Services](#)



FACES  
of HOPE



Idaho Legal Aid  
Services, Inc.

PROTECTING YOUR  
NEW ADDRESS

---

# ACP: HOW TO APPLY AND USE

ACP certification is easy to get and is processed quickly. Once effective, it is valid for four (4) years and can be renewed or cancelled any time.

---

For more information, please visit:  
<https://sos.idaho.gov/acp/>

---

## 01

Visit [sos.idaho.gov/acp](https://sos.idaho.gov/acp) to see if an application assistant is available nearby. If not, the application can be completed and submitted to the Office of the Secretary of State

---

## 02

Idaho ACP certifies your participation and mails you an authorization card with your new substitute address

---

## 03

You use the substitute address with any state or local government agency

---

## 04

All your mail is sent to the substitute address to protect your actual address

---

## 05

Your mail is forwarded to your actual confidential address

---