

New Housing Rights for Victims of Domestic Violence, Rape, Sexual Assault and Stalking

Victims of domestic violence, rape, sexual assault and stalking have increased rights and protections under a new housing law designed to help them be safer in their apartments or get out of a lease if that is needed to escape a perpetrator. This document answers frequently asked questions about the new law.¹

You have the following rights:

- To break your lease.
- To have your apartment locks changed.
- To not experience retaliation by your landlord, or a potential landlord in the future, for having had to break your lease or have your locks change.
- To not be evicted because you got a restraining order or called the police.
- To not be forced by a landlord to waive these rights when signing a new lease.

RIGHT TO BREAK YOUR LEASE WITHOUT FINANCIAL PENALTY *When you have to get out of your lease early because of the violence*

1. Can I break my lease² under this law?

The law allows you to break your lease when you have to flee because of domestic violence, rape, sexual assault or stalking that is directed against you or a member of your household if:

A member of the household is a victim *and either*

- a. The most recent incident occurred within the past 3 months; *or*
- b. A member of the household is in fear of imminent serious physical harm.

2. What if I live in public or subsidized housing?

The law covers *all* housing in Massachusetts, private or subsidized.

3. What if the perpetrator is also on the lease?

You have the right to break the lease and move but any other person who remains in the apartment still has responsibility under the lease.

4. Is this true even if I am not the head of household?

Yes, you can break the lease and leave even if you are not the head of household. In fact, under Massachusetts law you are not responsible for rent or penalties unless you signed the lease.

5. Can I still break my lease if the violence happened more than 3 months ago?

Yes, if you or a household member is in fear of imminent, serious, physical harm. For example, you may be in fear if the perpetrator has recently been released from jail or has discovered your location.

¹An Act Relative to Housing Rights For Victims Of Domestic Violence, Rape, Sexual Assault And Stalking, Chapter 402 of the Acts of 2012 ("402") amends G.L. c. 186 to add seven new sections (G.L. c. 186, § 23-29) and will take effect on April 3, 2013.

² For purposes of this document, the term "lease" also means occupancy agreement, rental agreement or tenancy-at-will.

6. Do I have to provide the landlord with proof of the violence?

A landlord has the right to request proof, and if it is requested, you will have to provide documentation.

7. What kind of documentation can be used as proof?

You will have to provide *one* of the following documents to your landlord:

- Copy of a valid protection or harassment prevention order under G.L. c. 209A or G.L. c. 258E³;
- A record from a federal, state or local court or law enforcement (e.g., police) of an incident and the name of the perpetrator if known;
- A written verification from a qualified third party including domestic violence and sexual assault counselors, licensed social workers and mental health professionals, and various law enforcement professionals. Adult victims will be asked to provide a sworn statement that the facts in the verification are true.

8. Is the documentation I give the landlord confidential?

Yes. The landlord is required to keep this documentation confidential.⁴

9. What steps do I have to take to break my lease?

- You must give the landlord written notice that you are going to break the lease due to safety concerns.
- You will have 3 months from when you give written notice of your intent to break the lease to leave the premises. After 3 months, your request will be void.

10. If I have already left my apartment, can I still break my lease?

Yes, as long as you give notice to the landlord within 3 months of the last incident and you left within those 3 months.

11. How long am I responsible for rent when I break my lease?

In most cases you would owe rent until you actually leave your apartment. However, if you leave your apartment before you give written notice to your landlord you would owe rent until you give the landlord notice.

12. What if I paid a last month rent in advance?

You are entitled to a refund of any prepaid rent applicable after this period.

13. What about my security deposit?

The new law does not change the landlord’s responsibility for the security deposit under Massachusetts law. The landlord must refund the security deposit or give you a full and specific statement of the basis for retaining any security deposit within 30 days after you and all occupants vacate the apartment.

³Under G.L. 209A, victims of violence who are family members, reside in the same household or have a substantial dating relationship with the perpetrator can obtain an order prohibiting further contact and/or abuse. Under G.L. 258E, victims of criminal harassment, stalking and sexual assault, regardless of their relationship to the perpetrator, can obtain a harassment prevention order prohibiting further contact and/or harassment. (Please note: “harassment” applies to specific behavior enumerated in the statute which includes sexual assault.)

⁴The exception to this is if you provide a written release or if required by a court order, government regulation or governmental audit requirements.

14. What if there are other adults remaining in the apartment after I leave?

The law does not affect the rights of others remaining in the unit. While you are relieved from responsibility except as provided in the law, the other adults would still be responsible for rent under the lease or for use and occupancy while they remain there. The landlord would not be required to return the security deposit until all the tenants have vacated.

15. Do I have to remove all my belongings from the apartment?

Yes, any belongings you leave in the apartment after you leave are considered abandoned and the landlord can dispose of them, unless you indicate in writing who is responsible for the belongings and what is to be done with them.

16. If I break my lease under this law will I then have bad credit?

No, this law gives you the right to legally break your lease if you comply with its requirements. A landlord is prohibited from refusing to rent to you because you terminated a lease due to violence.

RIGHT TO HAVE YOUR LOCKS CHANGED
When you need to have your locks changed for your safety.

17. When can I request a lock change for my individual unit?

You can request a lock change if you or a member of your household reasonably believes they are under imminent threat of domestic violence, rape, sexual assault or stalking at the premises.

18. How do I prove that such a threat exists?

A landlord can, but does not have to, request proof that such a threat exists. If requested, you will have to provide *one* of the following documents to your landlord:

- Copy of a valid protection or harassment prevention order under G.L. c. 209A or G.L. c. 258E;
- A record from a federal, state or local court or law enforcement (e.g., police) of an incident and the name of the perpetrator if known;
- A written verification from a qualified third party including domestic violence and sexual assault counselors, licensed social workers and mental health professionals, and various law enforcement professionals. Adult victims will be asked to provide a sworn statement that the facts in the verification are true.

19. What if the person who poses the safety threat is on my lease?

The landlord may change the locks and refuse to provide that person with a key if *one* of the following is provided:

- Copy of a valid protection or harassment prevention order under G.L. c. 209A or G.L. c. 258E;
or
- A record from a federal, state or local court or law enforcement (e.g., police) of an incident of violence.

The law also prohibits you from giving that person a copy of the new key.

20. Does the landlord have to respond to a lock change request if the appropriate documentation is provided?

Yes, the landlord must change the locks within 2 business days or give you permission to do so. Permission is not required if the landlord does not respond within 2 business days of your request. The landlord may charge you a reasonable customary fee for the expense.

You may be eligible to have the expense covered through the Massachusetts Victims of Violent Crime Compensation Program.⁵

21. How long does a landlord have to give me a key once the locks are changed?

The landlord must give you a key within the same 48 hour period in which the locks must be changed.

22. What if I get the locks changed on my own?

If you change the locks, they must be installed in a workmanlike (i.e., professional) manner with locks of similar or better quality than the original or the landlord can replace the locks and charge you for the costs.

You must give a copy of the key to the landlord within 48 hours after you change the locks.

23. What if a landlord tries to stop me from changing the locks or doesn't give me a key after changing the locks?

You have the right to file an action in the Housing Court, Superior Court, District Court or Boston Municipal Court to force the landlord to change the locks. If you win, you would have the right to damages and to reasonable attorney's fees.

PROTECTION AGAINST HOUSING DISCRIMINATION FOR ASSERTING YOUR RIGHTS TO BREAK YOUR LEASE OR HAVE YOUR LOCKS CHANGED

24. If I utilized my rights under the law to terminate a lease or change my locks in a previous rental unit, can a landlord refuse to rent, or a housing subsidy provider deny assistance, to me?

No. Doing so would be a violation of the law.

PROTECTION AGAINST EVICTION FOR OBTAINING A PROTECTION OR HARASSMENT PREVENTION ORDER OR CALLING THE POLICE

25. Am I protected from retaliation for exercising my rights under the law or my rights to protection?

Yes. You are protected from retaliation for:

- exercising your lock change rights,
- taking action under G.L. c. 209A or G.L. c. 258E,

⁵Victim Compensation website <http://www.mass.gov/ago/public-safety/resources-for-victims/victims-of-violent-crime/victim-compensation.html>

- reporting an incident of domestic violence, rape, sexual assault or stalking to law enforcement (e.g., police), and
- reporting a violation of a protection or harassment prevention order.

Unless the landlord can prove by clear and convincing evidence that they would have brought the eviction at the same time and in the same way even if you had not exercised your rights under the law, the law considers it retaliation. This is true even if the landlord had a prior relationship with the perpetrator or originally leased to the perpetrator.

PROTECTION AGAINST BEING FORCED TO WAIVE YOUR RIGHTS

26. Can a landlord ask me to waive some or all the rights afforded through this law in a lease?
 No. Doing so would be a violation of the law.

OTHER RIGHTS FOR APPLICANTS AND RESIDENTS OF FEDERALLY ASSISTED HOUSING PROGRAMS: The Massachusetts law protects all applicants and tenants but it should be noted that applicants and tenants of federally assisted housing programs have expanded rights under the Violence Against Women Act (VAWA).⁶

Resources

24-Hour Assistance:

SafeLink/Massachusetts Domestic Violence Hotline	1-877-785-2020 (TTY 1-877-521-2601)
National Domestic Violence Hotline	1-800-799-SAFE (7233) (TTY 1-800-787-3224)
National Sexual Assault Hotline (RAINN)	1-800-656-HOPE (4673)
National Dating Abuse Hotline	1-866-331-9474 (TTY 1-866-331-8453)

Find your local sexual and/or domestic violence program here: http://www.janedoe.org/find_help/search

Find local legal services here: <http://www.masslegalservices.org/FindLegalAid>

Massachusetts Victim Compensation & Assistance Division **(617) 727-2200 ext. 2160**

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⁶<http://www.masslegalhelp.org/domestic-violence/housing/vawa-section8-vouchers>