# Violence Against Women Act (VAWA)

An Overview

## What is VAWA

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." It has been reauthorized three (3) times. It was authorized for the third time on March 7, 2013.

When Congress reauthorized VAWA (Violence Against Women Act) in 2013, the Act was expanded to include other federally-subsidized housing programs beyond public housing and Section 8.

For landlords nationwide, VAWA sets certain limits on how they may treat victims of past or ongoing domestic violence.

## Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, or stalking. You cannot evict a tenant who is the victim of domestic violence, dating violence, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

## Permissible Evictions

You can evict a victim of domestic violence, dating violence, or stalking if you can demonstrate that there is an actual or imminent (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking. You cannot hold a victim of domestic violence, dating violence, or stalking to a more demanding standard that tenants who are not victims.

It is recommended that a VAWA lease addendum is included with leases.

## Removing the Abuser from the Household

The owner/management agent may allow the victim and other household members to stay in the unit, but require the abuser to vacate the unit. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

## Certification of Domestic Violence, Dating Violence, or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend the deadline. A tenant can certify by providing any one of the following:

- Complete a Form HUD -50066 certification form (example – owner/management agent may implement their own form).
- Statement from a victim service provider, attorney, or medical professional who has helped with domestic violence, dating or stalking.
- Provide a police or court record.

## Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws VAWA does not limit your obligation to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up. VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

An overview of VAWA's housing provisions is available at http://edocket.access.gpo.gov/2007/pdf/E7-4795.pdf.

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing and Urban Development**
Office of Public and Indian Housing

OMB Approval No. 2577-0249
Exp. (07/31/2017)

**Purpose of Form:** The Violence Against Women Reauthorization Act of 2013 ("VAWA") protects qualified tenants, participants, and applicants, and affiliated individuals, who are victims of domestic violence, dating violence, sexual assault, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

**Use of Form:** This is an optional form. A PHA, owner or manager presented with a claim for continued or initial tenancy or assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking (herein referred to as "Victim") has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. The Victim has the option of either submitting this form or submitting third-party documentation, such as:

(1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or
(2) Documentation signed by the Victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the Victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 Code of Federal Regulations (CFR) § 5.2005 or 24 CFR § 5.2009.

If this form is used by the Victim, the Victim must complete and submit it within 14 business days of receiving it from the PHA, owner or manager. This form must be returned to the person and address specified in the written request for the certification. If the Victim does not complete and return this form (or provide third-party verification) by the 14th business day or by an extension of the date provided by the PHA, manager or owner, the Victim cannot be assured s/he will receive VAWA protections.

If the Victim submits this form or third-party documentation as listed above, the PHA, owner or manager cannot require any additional evidence from the Victim.

**Confidentiality:** All information provided to a PHA, owner or manager concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking relating to the Victim (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking) shall be kept confidential by the PHA, owner or manager, and such information shall not be entered into any shared database. Employees of the PHA, owner, or manager are not to have access to these details unless to afford or reject VAWA protections to the Victim; and may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) requested or consented to by the Victim in writing; (ii) required for use in an eviction proceeding; or (iii) otherwise required by applicable law.

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**TO BE COMPLETED BY THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING:**

**Date Written Request Received by Victim:** _____

**Name of Victim:** _____

**Names of Other Family Members Listed on the Lease:** _____
_____

**Name of the Perpetrator*:** _____
***Note:** The Victim is required to provide the name of the perpetrator only if the name of the perpetrator is safe to provide, and is known to the victim.

**Perpetrator's Relationship to Victim:** _____

**Date(s) the Incident(s) of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Occurred:** _____
_____

**Location of Incident(s):**
_____
_____

Description of Incident(s) (This description may be used by the PHA, owner or manager for purposes of evicting the perpetrator. Please be as descriptive as possible.):

[INSERT TEXT LINES HERE]

I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence, sexual assault or stalking. I acknowledge that submission of false information is a basis for denial of admission, termination of assistance, or eviction.

Signature _____ Executed on (Date) _____

**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. Information provided is to be used by PHAs and Section 8 owners or managers to request a tenant to certify that the individual is a victim of domestic violence, dating violence or stalking. The information is subject to the confidentiality requirements of the HUD Reform Legislation. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Federal Register

Friday,
March 16, 2007

Part III

# Department of Housing and Urban Development

## The Violence Against Women and Department of Justice Reauthorization Act of 2005: Applicability to HUD Programs; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5056–N–01]

## The Violence Against Women and Department of Justice Reauthorization Act of 2005: Applicability to HUD Programs

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice addresses inquiries to HUD about: (1) The applicability to HUD programs of certain provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as amended by a technical corrections bill signed into law in August 2006, and (2) HUD's plans to issue rules or guidance on this new law. The Violence Against Women and Department of Justice Reauthorization Act of 2005 and the technical corrections described in this notice became effective upon enactment.

This notice presents information from HUD's Offices of Community Planning and Development, General Counsel, Housing, and Public and Indian Housing, and provides an overview of key provisions that affect HUD programs, identifies those provisions that require program participants to take action to be in compliance, and advises of efforts underway within HUD to further facilitate compliance with this new law, including rules and guidance that are under consideration or development.

**FOR FURTHER INFORMATION CONTACT:** For general information about the Violence Against Women and Department of Justice Reauthorization Act of 2005, please contact Aaron Santa Anna, Assistant General Counsel for Regulations, Office of Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10282, Washington, DC 20410–0500; telephone (202) 708–3055 (this is not a toll-free number). For information about HUD's Public Housing program and Housing Choice Voucher program, please contact the Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Room 4240, telephone (202) 708–1380. For information about HUD's Homeless Management Information Systems, please contact the Office of Program Coordination and Analysis Division, Office of Special Needs Programs, Office of Community Planning and Development, telephone (202) 402–4496. For information about HUD's Section 8 Project-Based program, please contact the Office of Housing Assistance Policy Division, Office of Housing, Room 6138, telephone (202) 708–3000. The address for all offices is the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. The above-listed telephone numbers are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Overview

On January 5, 2006, President Bush signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109–162) (VAWA 2005), and, on August 28, 2006, signed into law technical corrections to the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109–271). Except as provided in Section 4 of the technical corrections law, VAWA 2005 became effective upon enactment; no provisions of VAWA 2005 that affect the changes described in this notice have a delayed effective date. VAWA 2005 reauthorizes and amends the Violence Against Women Act of 1994 (42 U.S.C. 13701 *et seq.*) (VAWA 1994) for Fiscal Years 2007 through 2011, and, among other things, consolidates major law enforcement grant programs; makes amendments to criminal and immigration laws; and makes amendments to other statutes, including certain HUD statutes, to support and strengthen efforts to combat domestic violence and other forms of violence against women.

The provisions of VAWA 2005 applicable to HUD programs are found in Title VI entitled "Housing Opportunities and Safety for Battered Women and Children." Section 601 of VAWA 2005 amends VAWA 1994 to add a new Subtitle N to VAWA 1994 entitled "Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking."

*HUD Statutes Amended by VAWA 2005.* With regard to HUD programs, VAWA 2005 addresses various housing needs for victims of domestic violence, and amends the following HUD statutes: the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*), the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 13704 *et seq.*), and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 *et seq.*).

*HUD Programs Affected by VAWA 2005.* The amendments made by VAWA 2005 apply to HUD's Public Housing program, HUD's Supportive Housing program, and HUD's programs assisted by section 8 of the U.S. Housing Act of 1937. The VAWA 2005 provisions applicable to HUD do not cover HUD's Indian housing programs. The VAWA 2005 provisions applicable to HUD do not cover programs other than the Supportive Housing program for the Homeless and housing that is assisted by HUD under sections 6 and 8 of the U.S. Housing Act of 1937.

*Immediate Applicability of VAWA 2005.* The primary objectives of VAWA 2005 are to reduce violence against women and to protect, or increase the protection of, the safety and confidentiality of women who are victims of abuse. These new protections for families participating in HUD programs became effective upon enactment of the law on January 5, 2006, and for the majority of the VAWA 2005 amendments that are applicable to HUD programs, prior action by HUD is not necessary in order for implementation to begin. Following enactment of the new law, HUD's Office of Public and Indian Housing issued a direct notice on VAWA 2005, PIH 2006–23, in which it advised public housing agencies (PHAs) that these statutory provisions [of VAWA 2005] were effective the date the law was enacted (January 5, 2006). That notice can be found at *http://www.hud.gov/offices/pih/publications/notices/06/pih2006–23.pdf.* HUD's Office of Public and Indian Housing also issued PIH notice PIH 2006–42 on the VAWA form HUD–50066, Certification of Domestic Violence, Dating Violence, or Stalking. That notice can be found at *http://www.hud.gov/offices/pih/publications/notices/06/pih2006–42.pdf.* HUD's Office of Public and Indian Housing also issued PIH notice PIH 2007–5, which describes revised form HUD 52641, the Housing Assistance Payments Contract, and revised form HUD 52641A, the Tenancy Addendum. Both forms were revised to reflect statutory requirements of VAWA. That notice can be found at *http://www.hud.gov/offices/pih/publications/notices/07/pih2007-5.pdf.*

Sections II, III, and IV of this notice provide an overview of the key amendments made by VAWA 2005 that are applicable to HUD programs, and identify provisions for which rules or guidance may be issued by HUD's program offices.

### II. VAWA 2005 Amendments to the U.S. Housing Act of 1937

Under the U.S. Housing Act of 1937, HUD promotes the goal of providing decent and affordable housing for all citizens by providing funds for housing assistance.

A. *Public Housing Agency Plans.* Section 603 of VAWA 2005 amends section 5A of the U.S. Housing Act of 1937. This amendment requires the 5-year plans of PHAs to begin including a statement about goals, activities, objectives, policies, or programs that will enable a PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

The amendment requires the annual plan of PHAs to include a description of: (1) Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; (2) any activities, services, or programs provided or offered that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; and (3) any activities, services, or programs provided or offered to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

**Note:** PHAs must include the statement required by VAWA 2005 in their next regularly scheduled plan submission. PHAs are encouraged to amend or modify their plans before the next regular submission as provided in 24 CFR 903.21.

B. *Section 8 and Public Housing Identical Amendments.* Sections 606 and 607 amend section 8 (42 U.S.C. 1437f) and section 6 (42 U.S.C. 1437d) of the U.S. Housing Act of 1937, governing HUD's section 8 assisted programs and HUD's public housing program, respectively, as noted below.

1. *Admission, Occupancy, and Termination of Assistance Policies.* Sections 606 and 607 of the VAWA 2005 amendments provide that:

- Being a victim of domestic violence, dating violence, or stalking, as these terms are defined in the law (hereafter collectively referred to as "abuse"), is not a basis for denial of assistance or admission to public or assisted housing if the applicant otherwise qualifies for assistance or admission;
- Incidents or threats of abuse will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of abuse; and
- Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that abuse.

**Note:** PHAs and owners administering or participating in section 8 programs and public housing programs must ensure that, upon the date of enactment of VAWA 2005, any denial of admission to the programs and any termination of assistance, tenancy, or occupancy rights under the programs complies with the provisions of VAWA 2005, and any future denial or termination action will comply with the provisions of VAWA 2005.

VAWA 2005 provides that these new policies governing admission, occupancy, and termination of assistance are not to interfere with certain rights and responsibilities of PHAs, owners, or managers [1] regarding criminal activity or acts of violence against family members or others, as discussed in paragraph 2, which follows.

2. *Rights and Responsibilities of PHAs, Owners, and Managers.* The VAWA 2005 amendments, as recently amended by the technical corrections statute, and as applicable to section 8 contracts for assistance payments and public housing leases, provide that:

Notwithstanding the restrictions that VAWA 2005 places on admission, occupancy, and terminations of occupancy or assistance, as discussed in paragraph 1, or any federal, state, or local law to the contrary, a PHA, owner or manager may "bifurcate" a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant, and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.

**Note:** The authority provided to PHAs, owners, and managers under VAWA 2005 to bifurcate a lease or otherwise remove an individual is applicable to all existing leases for families participating in either the public housing or section 8 programs, and specific lease language to that effect is not necessary for the PHA, owner, or manager to exercise such authority. Neither the authority nor the procedures under any other law is necessary to bifurcate or otherwise remove an individual from the lease. Furthermore, this federal statutory authority to bifurcate a lease or otherwise remove an individual takes precedence over any federal, state, or local law to the contrary. However, PHAs, managers, and owners must keep in mind that the eviction of or the termination action against the individual must be effected in accordance with the procedures prescribed by federal, state, and local law. This means that the same procedures prescribed by federal, state, and local law that the PHA, owner, or manager must follow to evict, remove, terminate occupancy rights, or terminate assistance for the family as a whole must also be followed when exercising such action against an individual household member.

It is further noted that under the Housing Choice Voucher (HCV) program, PHAs have authority under the existing § 982.552(c)(2) to terminate voucher assistance for certain family members while permitting other members of a participant family to continue receiving assistance (provided the culpable family member will no longer reside in the unit). A PHA's right to exercise this administrative discretion under § 982.552(c)(2) is not dependent on a bifurcated lease or other eviction action by the owner against an individual family member.

VAWA 2005 also provides that the restrictions the law places on admission, occupancy, and termination of occupancy or assistance, as discussed in paragraph 1:

- May not be construed to limit a PHA, owner, or manager from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up;
- Does not limit any otherwise available authority of a PHA, owner, or manager to terminate assistance or evict due to any lease violation not premised on the act of violence in question against the tenant or member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate assistance;
- May not be construed to limit the authority of a PHA, owner, or manager to terminate the assistance of, or evict, any occupant who can be demonstrated to pose an actual or imminent threat to other tenants or the property's employees; and
- Shall not be construed to supersede any provisions of federal, state, or local

[1] Please note that in HUD's Housing programs, the term "manager" as used in VAWA is synonymous with the phrase "management agent."

laws that provide greater protection for victims of abuse.

3. *Certification of Abuse and Confidentiality.* Sections 606 and 607 of VAWA 2005, and as recently amended by the technical corrections statute, add certification and confidentiality provisions that allow for a PHA, owner, or manager to request an individual to certify that the individual is a victim of abuse and that the incidences of abuse are bona fide. The certification must include the name of the perpetrator, and any other statutorily required information, and the victim must provide the certification within 14 business days after the individual receives a request for such certification from the PHA, owner, or manager.

Without the certification, a PHA, owner, or manager may terminate assistance. All information provided to a PHA, owner, or manager is confidential. Notice of these rights must be given to tenants. The statute allows for the victim to self-certify and also allows for the certification requirement to be satisfied with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking or the effects of the abuse in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation. The statute also allows for the certification requirement to be satisfied by producing a federal, state, tribal, territorial, or local police or court record.

**Note:** HUD-Approved Certification. Sections 606 and 607 require the issuance of a "HUD-approved certification form" for victims of abuse to use. The HUD-approved certification form for PIH-covered programs is form HUD–50066, which may be found at: *http://www.hudclips.org/sub_nonhud/html/forms.htm.* On February 7, 2007 (72 FR 5733), HUD published a 60-day notice in the **Federal Register** informing the public that HUD will be submitting the Office of Housing's certification form for its programs (Form HUD–90066) to OMB for review.

4. *Portability in the Housing Choice Voucher Program.* VAWA 2005 amended section 8(r) of the United States Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedures if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

5. *PHA Notification to Tenants and Owners Participating in Section 8 Programs.* VAWA 2005 further requires that PHAs must provide notice to tenants assisted under section 8 of the United States Housing Act of 1937 of their rights, and notice to owners and managers of their rights and obligations, under section 8 as amended by VAWA 2005. Specifically, such notice must cover rights and obligations under subsections (8)(c)(9), (8)(d)(1)(B)(ii), (8)(d)(1)(B)(iii), (8)(o)(7)(C), (8)(o)(7)(D), (8)(o)(20), (8)(r)(5), and (8)(ee).

**Note:** PHAs must provide notice to all families and owners participating under any section 8 program administered by the PHA, including the HCV tenant-based and project-based program, the project-based certificate program, and the section 8 moderate rehabilitation program (excluding the Single Room Occupancy Moderate Rehabilitation program authorized under the McKinney-Vento Act).

6. *PHA Notification to Public Housing Residents.* VAWA 2005 also requires that PHAs must provide notice to public housing residents of their rights under section 6 of the United States Housing Act of 1937 as amended by VAWA 2005. Specifically, the notice must cover rights under subsections (6)(l)(5), (6)(l)(6), and (6)(u), including their rights to confidentiality and the limits thereof.

7. *Definitions Added to U.S. Housing Act of 1937.* Section 606(3) and section 607(5) of VAWA 2005, and as recently amended by the technical corrections statute, also amend section 8(f) and section 6(d) of the U.S. Housing Act of 1937 to provide important definitions of terms, most notably:

(1) A definition of "domestic violence" (42 U.S.C. 1437f(f)(8) and 42 U.S.C. 1436d(u)(3)(A)), which is given the same meaning as this term is defined in section 40002 of the Violence Against Women Act of 1994 (VAWA 1994) as added by VAWA 2005. VAWA 2005 defines "domestic violence" to include "felony or misdemeanor crimes of violence committed by a current or former spouse 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, 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) A definition of "dating violence" (42 U.S.C. 1473f(f)(9) and 42 U.S.C. 1436d(u)(3)(B)), which is given the same meaning as this term as defined in section 40002 of VAWA 1994, as added by VAWA 2005. VAWA 2005 defines "dating violence" to mean "violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship."

(3) A definition of "stalking" (42 U.S.C. 1437f(f)(10) and 42 U.S.C. 14736d(u)(3)(C)), that differs from the meaning of this term as defined in section 40002 of VAWA 1994, as added by VAWA 2005. The definition that is applicable to HUD's public housing and section 8 assisted programs is a more detailed definition than that provided in section 40002 of VAWA 1994, as amended by VAWA 2005. For HUD covered programs, the definition of "stalking" is defined as follows. "Stalking means (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person"; and

(4) A definition of "immediate family member" (42 U.S.C. 1437f(f)(11) and 1437d(u)(3)(D)). "Immediate family member" is defined to mean, "with respect to a person (A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage."

## III. VAWA 2005 Amendments to the McKinney-Vento Homeless Assistance Act

The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11383) authorizes programs that provide grants for homeless assistance. Section 605 of VAWA 2005 amends section 423 of the McKinney-Vento Homeless Assistance Act. Section 423 is part of Subtitle C of the McKinney-Vento Homeless Assistance Act, which establishes HUD's Supportive Housing Program. Section 423 of that subtitle describes the eligible activities of the Supportive Housing assistance program, and section 605 of VAWA 2005 adds a new subsection (a)(8) entitled "Confidentiality."

*Homeless Management Information Systems.* Homeless Management Information Systems (HMIS) are computerized data collection applications that facilitate the collection of information on homeless individuals and families using residential or other homeless assistance services and stores that data in an electronic format. The new Confidentiality provision directs victim service providers not to disclose, for purposes of HMIS, personally identifying information about any client. In accordance with this statutory requirement, victim service providers must maintain the confidentiality of personally identifying information of the providers' clients. The Office of Community Planning and Development is also planning to issue guidance that may be helpful to participants.

It is important to note, however, that the VAWA 2005 amendment does not affect current aggregate reporting under the Annual Progress Reporting (APR) process covering the Supportive Housing, Shelter Plus Care, and Section 8 SRO programs. In addition, current aggregate reporting for the Emergency Shelter Grant program under the Integrated Disbursement and Information System (IDIS) reporting is not covered.

*Notice and Comment Requirement.* Section 605 allows HUD, through a public notice and comment process, to require recipients or subrecipients to disclose for purposes of HMIS, non-personally identifying data that has been de-identified, encrypted or otherwise encoded. HUD's Office of Community Planning and Development is considering how technology may ensure the proper protection of personally identifying data. For purposes of HMIS, any requirement to disclose non-personally identifying information will be issued through a notice and comment process as directed by statute. It is important to reiterate that existing paper record keeping requirements and aggregate reporting under the APR and IDIS systems are not covered by this section since they preceded the HMIS initiative and are currently separate from HMIS; also, the APR and IDIS systems do not require personal identifiers being entered into a central database.

Section 605 also defines the terms "personally identifying information" and "victim service provider." The term "personally identifying information" is defined to mean "individually identifying information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including (I) a first and last name; (II) a home or other physical address; (III) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number); (IV) a social security number; and (V) any other information including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information would serve to identify any individual."

The term "victim service provider" is defined to mean "a nonprofit, nongovernmental organization, including rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking."

## IV. VAWA 2005 Amendments to the Cranston-Gonzalez National Affordable Housing Act

Under the Cranston-Gonzalez National Affordable Housing Act, HUD may provide assistance to certain jurisdictions that, in turn, will create comprehensive affordable housing strategies. Section 604 of VAWA 2005 amends section 105(b)(1) of the Cranston-Gonzalez National Affordable Housing Act to now require that comprehensive housing affordability strategies (more familiarly known as the Consolidated Plan) submitted to the Secretary shall contain estimated housing needs for victims of domestic violence, dating violence, sexual assault, and stalking.

## V. Additional Information

As a result of the amendments to the HUD statutes discussed in this notice, HUD's Office of Community Planning and Development and HUD's Office of Public and Indian Housing have already begun outreach to program participants and to organizations representative of victims of abuse on those provisions for which additional compliance guidance from HUD may be beneficial to program participants.

HUD will be amending the regulations of the programs covered by VAWA 2005 to conform the existing regulations to the new statutory language and requirements. Again, however, the absence of the statutory language in the regulations does not mean the statutory provisions are not effective and applicable. The protections provided by the statute are immediately available to covered families.

In HUD's Semiannual Agenda of Regulations, published on April 24, 2006 (71 FR 22734), HUD's Office of Public and Indian Housing announced that it would revise HUD's regulations for its public and assisted housing programs to conform the regulations to the statutory amendments made by VAWA 2005 (*see* 71 FR 22757). This office reiterated this statement about forthcoming rules in Notice PIH 2006–23.

HUD's Office of Housing has already engaged in outreach activities, engaging affected program participants in discussions about the nature and scope of VAWA 2005 provisions and how they might best be implemented. Housing also plans to issue, in the near future, a **Federal Register** notice that addresses VAWA 2005 requirements applicable to participants in Housing programs. Housing will also be issuing, by separate publication, guidance and a HUD-approved certification form that can be provided by an owner or management agent to a tenant to help ascertain whether the tenant is a victim of abuse.

HUD's Office of Community Planning and Development is examining new technology to determine whether such technology can provide the protection for non-personally identifying data, which the statute directs be provided and which HUD seeks to provide.

In addition to rules that conform regulatory language to the recently enacted statutory language, offices may issue guidance to assist program participants in compliance with the new amendments, depending upon questions raised by their respective constituents. Additionally, HUD may determine that for certain areas of the new law, binding requirements established through proposed and final rulemaking, as opposed to guidance, serve as the better approach for achieving compliance.

*VAWA 2005, in its entirety, is available at the following Web site addresses:*

- *For plain text version: http://frwebgate.access.gpo.gov/cgi-bin/*

*useftp.cgi?IPaddress=162.140.64.21&filename=publ162.109&directory=/diskb/wais/data/109_cong_public_laws*

- *For PDF version: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ162.109.pdf*

VAWA 2005's technical correction, in its entirety, is available at the following Web site addresses:

- *For plain text version: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ271.109*
- *For PDF version: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ271.109.pdf.*

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**Roy A. Bernardi,**

*Deputy Secretary.*

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