

112TH CONGRESS
1ST SESSION

S. 1892

To protect the housing rights of victims of domestic violence, dating violence, sexual assault, and stalking, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2011

Mr. FRANKEN (for himself, Ms. COLLINS, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To protect the housing rights of victims of domestic violence, dating violence, sexual assault, and stalking, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Housing Rights for
5 Victims of Domestic and Sexual Violence Act of 2011”.

1 **SEC. 2. DENIAL OR TERMINATION OF ASSISTANCE AND**
 2 **EVICTION PROTECTIONS.**

3 (a) AMENDMENT.—Subtitle N of the Violence
 4 Against Women Act of 1994 (42 U.S.C. 14043e et seq.)
 5 is amended—

6 (1) by inserting after the subtitle heading the
 7 following:

8 **“CHAPTER 1—GRANT PROGRAMS”;**

9 (2) in section 41402 (42 U.S.C. 14043e–1), in
 10 the matter preceding paragraph (1), by striking
 11 “subtitle” and inserting “chapter”;

12 (3) in section 41403 (42 U.S.C. 14043e–2), in
 13 the matter preceding paragraph (1), by striking
 14 “subtitle” and inserting “chapter”; and

15 (4) by adding at the end the following:

16 **“CHAPTER 2—HOUSING RIGHTS**

17 **“SEC. 41411. HOUSING RIGHTS FOR VICTIMS OF DOMESTIC**
 18 **VIOLENCE, DATING VIOLENCE, SEXUAL AS-**
 19 **SAULT, AND STALKING.**

20 “(a) DEFINITIONS.—In this chapter:

21 “(1) APPROPRIATE AGENCY.—The term ‘appro-
 22 priate agency’ means, with respect to a covered
 23 housing program, the Executive department (as de-
 24 fined in section 101 of title 5, United States Code)
 25 that carries out the covered housing program.

1 “(2) COVERED HOUSING PROGRAM.—The term
2 ‘covered housing program’ means—

3 “(A) the program under section 202 of the
4 Housing Act of 1959 (12 U.S.C. 1701q);

5 “(B) the program under section 811 of the
6 Cranston-Gonzalez National Affordable Hous-
7 ing Act (42 U.S.C. 8013);

8 “(C) the program under subtitle D of title
9 VIII of the Cranston-Gonzalez National Afford-
10 able Housing Act (42 U.S.C. 12901 et seq.);

11 “(D) the program under subtitle A of title
12 IV of the McKinney-Vento Homeless Assistance
13 Act (42 U.S.C. 11360 et seq.);

14 “(E) the program under subtitle A of title
15 II of the Cranston-Gonzalez National Afford-
16 able Housing Act (42 U.S.C. 12741 et seq.);

17 “(F) the program under paragraph (3) of
18 section 221(d) of the National Housing Act (12
19 U.S.C. 1715l(d)) that bears interest at a rate
20 determined under the proviso under paragraph
21 (5) of such section 221(d);

22 “(G) the program under section 236 of the
23 National Housing Act (12 U.S.C. 1715z–1);

1 “(H) the programs under sections 8 and 9
2 of the United States Housing Act of 1937 (42
3 U.S.C. 1437f and 1437g);

4 “(I) rural housing assistance provided
5 under sections 514, 515, 516, 533, and 538 of
6 the Housing Act of 1949 (42 U.S.C. 1484,
7 1485, 1486, 1490m, and 1490p-2); and

8 “(J) the low income housing tax credit
9 program under section 42 of the Internal Rev-
10 enue Code of 1986.

11 “(3) IMMEDIATE FAMILY MEMBER.—The term
12 ‘immediate family member’ means, with respect to
13 an individual—

14 “(A) a spouse, parent, brother, sister, or
15 child of that individual, or an individual to
16 whom such individual stands in loco parentis;

17 “(B) any individual living in the household
18 of such individual who is related to such indi-
19 vidual by blood or marriage; or

20 “(C) any individual living in the household
21 of such individual who is related to such indi-
22 vidual by affinity whose close association or in-
23 timate relationship with such individual is the
24 equivalent of a family relationship.

1 “(b) PROHIBITED BASIS FOR DENIAL OR TERMI-
2 NATION OF ASSISTANCE OR EVICTION.—

3 “(1) IN GENERAL.—An applicant for or tenant
4 of housing assisted under a covered housing program
5 may not be denied admission to, denied assistance
6 under, terminated from participation in, or evicted
7 from the housing on the basis that the applicant or
8 tenant is or has been a victim of domestic violence,
9 dating violence, sexual assault, or stalking, if the ap-
10 plicant or tenant otherwise qualifies for admission,
11 assistance, participation, or occupancy.

12 “(2) CONSTRUCTION OF LEASE TERMS.—An in-
13 cident of actual or threatened domestic violence, dat-
14 ing violence, sexual assault, or stalking shall not be
15 construed as—

16 “(A) a serious or repeated violation of a
17 lease for housing assisted under a covered hous-
18 ing program by the victim or threatened victim
19 of such incident; or

20 “(B) good cause for terminating the assist-
21 ance, tenancy, or occupancy rights to housing
22 assisted under a covered housing program of
23 the victim or threatened victim of such incident.

24 “(3) TERMINATION ON THE BASIS OF CRIMINAL
25 ACTIVITY.—

1 “(A) DENIAL OF ASSISTANCE, TENANCY,
2 AND OCCUPANCY RIGHTS PROHIBITED.—No
3 person may deny assistance, tenancy, or occu-
4 pancy rights to housing assisted under a cov-
5 ered housing program to a tenant solely on the
6 basis of criminal activity directly relating to do-
7 mestic violence, dating violence, sexual assault,
8 or stalking that is engaged in by a member of
9 the household of the tenant or any guest or
10 other person under the control of the tenant, if
11 the tenant or an immediate family member of
12 the tenant is the victim or threatened victim of
13 such domestic violence, dating violence, sexual
14 assault, or stalking.

15 “(B) BIFURCATION.—

16 “(i) IN GENERAL.—Notwithstanding
17 subparagraph (A), an owner or manager of
18 housing assisted under a covered housing
19 program may bifurcate a lease for the
20 housing in order to evict, remove, or termi-
21 nate assistance to any individual who is a
22 tenant or lawful occupant of the housing
23 and who engages in criminal activity di-
24 rectly relating to domestic violence, dating
25 violence, sexual assault, or stalking against

1 an immediate family member or other indi-
2 vidual, without evicting, removing, termi-
3 nating assistance to, or otherwise penal-
4 izing a victim of such criminal activity who
5 is also a tenant or lawful occupant of the
6 housing.

7 “(ii) EFFECT OF EVICTION ON OTHER
8 TENANTS.—If an owner or manager of
9 housing assisted under a covered housing
10 program evicts, removes, or terminates as-
11 sistance to an individual under clause (i),
12 and the individual is the sole tenant eligi-
13 ble to receive assistance under a covered
14 housing program, the owner or manager of
15 housing assisted under the covered housing
16 program shall provide any remaining ten-
17 ant an opportunity to establish eligibility
18 for the covered housing program. If a ten-
19 ant described in the preceding sentence
20 cannot establish eligibility, the owner or
21 manager of the housing shall provide the
22 tenant a reasonable time, as determined by
23 the appropriate agency, to find new hous-
24 ing or to establish eligibility for housing
25 under another covered housing program.

1 “(C) RULE OF CONSTRUCTION.—Nothing
2 in subparagraph (A) shall be construed—

3 “(i) to limit the authority of an owner
4 or manager of housing assisted under a
5 covered housing program, when notified of
6 a court order, to comply with a court order
7 with respect to—

8 “(I) the rights of access to or
9 control of property, including civil
10 protection orders issued to protect a
11 victim of domestic violence, dating vio-
12 lence, sexual assault, or stalking; or

13 “(II) the distribution or posses-
14 sion of property among members of a
15 household in a case;

16 “(ii) to limit any otherwise available
17 authority of an owner or manager of hous-
18 ing assisted under a covered housing pro-
19 gram to evict or terminate assistance to a
20 tenant for any violation of a lease not pre-
21 mised on the act of violence in question
22 against the tenant or an immediate family
23 member of the tenant, if the owner or
24 manager does not subject an individual
25 who is or has been a victim of domestic vi-

1 olence, dating violence, or stalking to a
2 more demanding standard than other ten-
3 ants in determining whether to evict or ter-
4 minate;

5 “(iii) to limit the authority to termi-
6 nate assistance to a tenant or evict a ten-
7 ant from housing assisted under a covered
8 housing program if the owner or manager
9 of the housing can demonstrate that an ac-
10 tual and imminent threat to other tenants
11 or individuals employed at or providing
12 service to the property would be present if
13 the assistance is not terminated or the ten-
14 ant is not evicted; or

15 “(iv) to supersede any provision of
16 any Federal, State, or local law that pro-
17 vides greater protection than this section
18 for victims of domestic violence, dating vio-
19 lence, sexual assault, or stalking.

20 “(c) DOCUMENTATION.—

21 “(1) REQUEST FOR DOCUMENTATION.—If an
22 applicant for or tenant of housing assisted under a
23 covered housing program represents to the owner or
24 manager of the housing that the individual is enti-
25 tled to protection under subsection (b), the owner or

1 manager may request, in writing, that the tenant
2 submit to the owner or manager a form of docu-
3 mentation described in paragraph (3).

4 “(2) FAILURE TO PROVIDE CERTIFICATION.—If
5 a tenant does not provide the documentation re-
6 quested under paragraph (1) within 14 business
7 days after the tenant receives a request in writing
8 for such certification from the owner or manager of
9 the housing, nothing in this chapter may be con-
10 strued to limit the authority of the owner or man-
11 ager to evict any tenant or lawful occupant that
12 commits violations of a lease. The owner or manager
13 of the housing may extend the 14-day deadline at its
14 discretion.

15 “(3) FORM OF DOCUMENTATION.—A form of
16 documentation described in this paragraph is—

17 “(A) a certification form approved by the
18 appropriate agency that—

19 “(i) states that an applicant or tenant
20 is a victim of domestic violence, dating vio-
21 lence, sexual assault, or stalking;

22 “(ii) states that the incident of domes-
23 tic violence, dating violence, sexual assault,
24 or stalking that is the ground for protec-

1 tion under subsection (b) meets the re-
2 quirements under subsection (b); and

3 “(iii) at the option of the applicant or
4 tenant, includes the name of the individual
5 who committed the domestic violence, dat-
6 ing violence, sexual assault, or stalking;

7 “(B) a document that—

8 “(i) is signed by—

9 “(I) an employee, agent, or vol-
10 unteer of a victim service provider, an
11 attorney, a medical professional, or a
12 mental health professional from whom
13 an applicant or tenant has sought as-
14 sistance relating to domestic violence,
15 dating violence, sexual assault, or
16 stalking, or the effects of the abuse;
17 and

18 “(II) the applicant or tenant; and

19 “(ii) states under penalty of perjury
20 that the individual described in clause
21 (i)(I) believes that the incident of domestic
22 violence, dating violence, sexual assault, or
23 stalking that is the ground for protection
24 under subsection (b) meets the require-
25 ments under subsection (b);

1 “(C) a record of a Federal, State, tribal,
2 territorial, or local law enforcement agency,
3 court, or administrative agency; or

4 “(D) at the discretion of an owner or man-
5 ager of housing assisted under a covered hous-
6 ing program, a statement or other evidence pro-
7 vided by an applicant or tenant.

8 “(4) CONFIDENTIALITY.—Any information sub-
9 mitted to an owner or manager under this sub-
10 section, including the fact that an individual is a vic-
11 tim of domestic violence, dating violence, sexual as-
12 sault, or stalking shall be maintained in confidence
13 by the owner or manager and may not be entered
14 into any shared database or disclosed to any other
15 entity or individual, except to the extent that the
16 disclosure is—

17 “(A) requested or consented to by the indi-
18 vidual in writing;

19 “(B) required for use in an eviction pro-
20 ceeding under subsection (b); or

21 “(C) otherwise required by applicable law.

22 “(5) DOCUMENTATION NOT REQUIRED.—Noth-
23 ing in this subsection shall be construed to require
24 an owner or manager of housing assisted under a
25 covered housing program to request that an indi-

1 vidual submit documentation of the status of the in-
2 dividual as a victim of domestic violence, dating vio-
3 lence, sexual assault, or stalking.

4 “(6) COMPLIANCE NOT SUFFICIENT TO CON-
5 STITUTE EVIDENCE OF UNREASONABLE ACT.—Com-
6 pliance with subsection (b) by an owner or manager
7 of housing assisted under a covered housing program
8 based on documentation received under this sub-
9 section shall not be sufficient to constitute evidence
10 of an unreasonable act or omission by the owner or
11 manager or an employee or agent of the owner or
12 manager. Nothing in this paragraph shall be con-
13 strued to limit the liability of an owner or manager
14 of housing assisted under a covered housing program
15 for failure to comply with subsection (b).

16 “(7) PREEMPTION.—Nothing in this subsection
17 shall be construed to supersede any provision of any
18 Federal, State, or local law that provides greater
19 protection than this subsection for victims of domes-
20 tic violence, dating violence, sexual assault, or stalk-
21 ing.

22 “(d) NOTIFICATION.—Each owner or manager of
23 housing assisted under a covered housing program shall
24 provide to each applicant for or tenant of such housing
25 notice of the rights of individuals under this section, in-

1 cluding the right to confidentiality and the limits thereof,
2 together with the form described in subsection (c)(3)(A)—

3 “(1) at the time the individual applies to live in
4 a dwelling unit assisted under the covered housing
5 program;

6 “(2) at the time the individual is admitted to a
7 dwelling unit assisted under the covered housing
8 program;

9 “(3) with any notification of eviction or notifi-
10 cation of termination of assistance;

11 “(4) in multiple languages, consistent with
12 guidance issued by the Secretary of Housing and
13 Urban Development in accordance with Executive
14 Order 13166 (42 U.S.C. 2000d–1 note; relating to
15 access to services for persons with limited English
16 proficiency); and

17 “(5) by posting the notification in a public area
18 of such housing.

19 “(e) EMERGENCY TRANSFERS.—Notwithstanding
20 any other provision of law, each owner or manager of
21 housing assisted under a covered program shall adopt an
22 emergency transfer policy for tenants who are victims of
23 domestic violence, dating violence, sexual assault, or stalk-
24 ing that—

1 “(1) allows tenants who are victims of domestic
2 violence, dating violence, sexual assault, or stalking
3 to transfer to another available and safe dwelling
4 unit assisted under a covered housing program if—

5 “(A) the tenant expressly requests the
6 transfer; and

7 “(B)(i) the tenant reasonably believes that
8 the tenant is threatened with imminent harm
9 from further violence if the tenant remains
10 within the same dwelling unit assisted under a
11 covered housing program; or

12 “(ii) in the case of a tenant who is a victim
13 of sexual assault, the sexual assault occurred on
14 the premises during the 90 day period pre-
15 ceeding the request for transfer; and

16 “(2) incorporates reasonable confidentiality
17 measures to ensure that the owner or manager does
18 not disclose the location of the dwelling unit of a
19 tenant to a person that commits an act of domestic
20 violence, dating violence, sexual assault, or stalking
21 against the tenant.

22 “(f) POLICIES AND PROCEDURES FOR EMERGENCY
23 TRANSFER.—The Secretary of Housing and Urban Devel-
24 opment shall establish policies and procedures under
25 which a victim requesting an emergency transfer under

1 subsection (e) may receive, subject to the availability of
2 tenant protection vouchers, assistance under section 8(o)
3 of the United States Housing Act of 1937 (42 U.S.C.
4 1437f(o)).

5 “(g) IMPLEMENTATION.—The appropriate agency
6 with respect to each covered housing program shall imple-
7 ment this section, as this section applies to the covered
8 housing program.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) SECTION 6.—Section 6 of the United States
11 Housing Act of 1937 (42 U.S.C. 1437d) is amend-
12 ed—

13 (A) in subsection (c)—

14 (i) by striking paragraph (3); and

15 (ii) by redesignating paragraphs (4)
16 and (5) as paragraphs (3) and (4), respec-
17 tively;

18 (B) in subsection (l)—

19 (i) in paragraph (5), by striking “,
20 and that an incident or incidents of actual
21 or threatened domestic violence, dating vio-
22 lence, or stalking will not be construed as
23 a serious or repeated violation of the lease
24 by the victim or threatened victim of that
25 violence and will not be good cause for ter-

1 minating the tenancy or occupancy rights
2 of the victim of such violence”; and

3 (ii) in paragraph (6), by striking “;
4 except that” and all that follows through
5 “stalking.”; and

6 (C) by striking subsection (u).

7 (2) SECTION 8.—Section 8 of the United States
8 Housing Act of 1937 (42 U.S.C. 1437f) is amend-
9 ed—

10 (A) in subsection (e), by striking para-
11 graph (9);

12 (B) in subsection (d)(1)—

13 (i) in subparagraph (A), by striking
14 “and that an applicant or participant is or
15 has been a victim of domestic violence, dat-
16 ing violence, or stalking is not an appro-
17 priate basis for denial of program assist-
18 ance or for denial of admission if the appli-
19 cant otherwise qualifies for assistance or
20 admission”; and

21 (ii) in subparagraph (B)—

22 (I) in clause (ii), by striking “,
23 and that an incident or incidents of
24 actual or threatened domestic vio-
25 lence, dating violence, or stalking will

1 not be construed as a serious or re-
2 peated violation of the lease by the
3 victim or threatened victim of that vi-
4 olence and will not be good cause for
5 terminating the tenancy or occupancy
6 rights of the victim of such violence”;
7 and

8 (II) in clause (iii), by striking “,
9 except that:” and all that follows
10 through “stalking.”;

11 (C) in subsection (f)—

12 (i) in paragraph (6), by adding “and”
13 at the end;

14 (ii) in paragraph (7), by striking the
15 semicolon at the end and inserting a pe-
16 riod; and

17 (iii) by striking paragraphs (8), (9),
18 (10), and (11);

19 (D) in subsection (o)—

20 (i) in paragraph (6)(B), by striking
21 the last sentence;

22 (ii) in paragraph (7)—

23 (I) in subparagraph (C), by strik-
24 ing “and that an incident or incidents
25 of actual or threatened domestic vio-

1 lence, dating violence, or stalking shall
2 not be construed as a serious or re-
3 peated violation of the lease by the
4 victim or threatened victim of that vi-
5 olence and shall not be good cause for
6 terminating the tenancy or occupancy
7 rights of the victim of such violence”;
8 and

9 (II) in subparagraph (D), by
10 striking “; except that” and all that
11 follows through “stalking.”; and

12 (iii) by striking paragraph (20); and

13 (E) by striking subsection (ee).

14 (3) RULE OF CONSTRUCTION.—Nothing in this
15 Act, or the amendments made by this Act, shall be
16 construed—

17 (A) to limit the rights or remedies avail-
18 able to any person under section 6 or 8 of the
19 United States Housing Act of 1937 (42 U.S.C.
20 1437d and 1437f), as in effect on the day be-
21 fore the date of enactment of this Act; or

22 (B) to limit any right, remedy, or proce-
23 dure otherwise available under any provision of
24 part 5, 91, 880, 882, 883, 884, 886, 891, 903,

1 960, 966, 982, or 983 of title 24, Code of Fed-
2 eral Regulations, that—

3 (i) was issued under the Violence
4 Against Women and Department of Jus-
5 tice Reauthorization Act of 2005 (Public
6 Law 109–162; 119 Stat. 2960) or an
7 amendment made by that Act; and

8 (ii) provides greater protection for vic-
9 tims of domestic violence, dating violence,
10 sexual assault, and stalking than this Act.

○