

## Housing Rights of Sexual Assault Victims

Wisconsin law supports and protects victims of sexual assault in the context of renting or leasing residential property from a landlord. It allows a victim who faces an imminent threat of physical harm to break their lease or rental agreement without incurring extreme financial hardship. Landlords have the power to evict an offender tenant if they threaten a victim tenant with serious physical harm. Wisconsin law also eliminates the possibility of fees when a person requests help from law enforcement for sexual assault, domestic abuse, or stalking and makes it illegal for landlords to place penalty provisions in rental agreements for contact with law enforcement under those circumstances.

### **WHEN MAY A TENANT TERMINATE HIS OR HER RENTAL AGREEMENT?**

Under Wisconsin Statute §704.16 a tenant may terminate his or her tenancy and leave the premises if the tenant or a tenant's child faces an imminent threat of serious physical harm from another person (offender) if the tenant remains on the premises. A tenant must provide the landlord with both:

(1) Notice through one of the following methods:

- Giving a copy of the notice personally to the landlord or property manager
- Leaving a copy of the notice at the landlord's usual place of residence with a member of the family over the age of 14
- Giving a copy of the notice personally to a person in charge of the landlord's regular place of business or the place where the rent is payable
- Mailing a copy by registered or certified mail to the landlord, property manager, or person who receives the rent at that person's last-known address.
- By serving the landlord with a summons

(2) A certified copy of any of the following:

- A domestic abuse injunction protecting the tenant from the offender
- A child abuse injunction protecting the child of a tenant from the offender
- A harassment injunction protecting the tenant or the child of a tenant from the offender based on any of the following:
  - First through fourth degree sexual assault
  - First or second degree sexual assault of a child
  - Engaging in repeated acts of sexual assault of the same child
  - Stalking
  - Attempting or threatening to do any of the above
- A condition of release ordering the offender not to contact the tenant
- A criminal complaint alleging that the offender sexually assaulted the tenant or a child of a tenant
- A criminal complaint alleging that the offender stalked the tenant or a child of the tenant
- A criminal complaint that was filed against the offender as a result of an arrest for a domestic abuse offense

## **WHEN MAY A TENANT TERMINATE HIS OR HER RENTAL AGREEMENT?**

If a tenant follows all the procedures outlined above and there is a threat of serious harm to the tenant or the tenant's child from an offender, then the tenant will not be responsible for the remaining rental payments on their lease or rental agreement. However, the tenant will be financially responsible for the month in which they provide notice to the landlord or vacate the property, whichever action occurs later. The tenant will also be required to pay one additional month's rent. For example, if a tenant has a rental agreement through the end of October and they provide notice and vacate the apartment on July 1st, they will be required to pay rent for July and for August, but will not be required to pay for September or October.

## **LOCK CHANGE PROVISIONS IN WISCONSIN LAW**

Wis. Statute §704.16(4) creates a provision requiring that landlords allow lock changes for tenants to protect victims of sexual assault, domestic abuse, and stalking. Whether or not the victim wishes to terminate their rental agreement, a tenant may request that the locks to their premises be changed. To request a lock change, the tenant must provide a certified copy of a document listed above in section (2). Upon receiving that document, the landlord must change the locks or permit the tenant to change the locks within 48 hours. The tenant is liable for all costs to change the lock, and if they have them changed, must also provide the landlord with a copy of the key within a reasonable amount of time. However, if the offender is also a tenant of the premises, the landlord is not required to change the locks unless one of the following certified documents is provided:

- A domestic abuse injunction protecting the tenant from the offender
- A child abuse injunction protecting the child of a tenant from the offender
- A harassment injunction protecting the tenant or the child of a tenant from the offender based on:
  - First through fourth degree sexual assault
  - First or second degree sexual assault of a child
  - Engaging in repeated acts of sexual assault of the same child
  - Stalking
  - Attempting or threatening to do any of the above
- A condition of release ordering the offender not to contact the tenant

If the locks are changed under this law, the tenant who is the subject of any of the above orders is not relieved from any rental agreement obligations or other liability to the landlord.

## **TERMINATING AN OFFENDERS RENTAL AGREEMENT**

Under Wisconsin Statute §704.16, a landlord may terminate a lease or rental agreement with an offending tenant if all of the following apply:

- (1) The offending tenant commits any act, including verbal threats, that cause another tenant (victim tenant) or a child of another tenant to face an imminent threat of serious physical harm from the offending tenant if the offending tenant remains on the premises.
  - (2) The offending tenant is a named offender in any of the following:
    - A domestic abuse injunction protecting the victim tenant from the offending tenant
    - A child abuse injunction protecting the child of a tenant from the offending tenant
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- A harassment injunction protecting the victim tenant or the child of a tenant from the offending tenant based on:
  - First through fourth degree sexual assault
  - First or second degree sexual assault of a child
  - Engaging in repeated acts of sexual assault of the same child
  - Stalking
  - Attempting or threatening to do any of the above
- A condition of release ordering the offending tenant not to contact the victim tenant
- A criminal complaint alleging that the offending tenant sexually assaulted the victim tenant or a child of a tenant
- A criminal complaint alleging that the offending tenant stalked the victim tenant or a child of a tenant
- A criminal complaint that was filed against the offending tenant as a result of an arrest for a domestic abuse offense against the victim tenant

(3) The landlord gives the offending tenant written notice, that complies with §704.21, requiring the offender to vacate on or before a date that is at least 5 days away after the giving of the notice.

### **A RENTAL AGREEMENT THAT RESTRICTS ACCESS TO LAW ENFORCEMENT SERVICES IS VOID**

According to Wisconsin Statute §704.44 a residential rental agreement is void and unenforceable when it contains certain provisions that allow a landlord to “punish” a tenant for requesting assistance from law enforcement services, health services, or safety services. A rental agreement may not contain provisions that allow the landlord to:

- Increase rent
- Decrease services
- Bring an action for possession of the premises
- Refuse to renew a rental agreement
- Threaten to do any of the above
- Allows the landlord to terminate the tenancy for a crime committed in relation to the rental property and the rental agreement does not include the notice required under Wisconsin Statute §704.14 (see below)

### **NOTICE OF DOMESTIC ABUSE PROTECTIONS**

Under Wisconsin Statute §704.14, a residential rental agreement shall include the following notice in the agreement or in an addendum to the agreement:

(1) As provided in section 106.50 (5m) (dm) of the Wisconsin Statutes, a tenant has a defense to an eviction action if the tenant can prove that the landlord knew, or should have known, the tenant is a victim of domestic abuse, sexual assault, or stalking and that the eviction is based in conduct related to domestic abuse, sexual assault or stalking committed by either of the following:

- (a) A person who was not the tenant’s invited guest.
  - (b) A person who was the tenant’s invited guest, but the tenant has done either of the following:
    1. Sought an injunction barring the person from the premises.
    2. Provided a written statement to the landlord stating that the person will no longer be an invited guest of the tenant and the tenant has not subsequently invited the person to be the tenant’s guest.
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(2) A tenant who is a victim of domestic abuse, sexual assault or stalking may have the right to terminate the rental agreement in certain limited situations, as provided in section 704.14 of the Wisconsin statutes. If the tenant has safety concerns, the tenant should contact a local victim service provided or law enforcement agency.

(3) A tenant is advised that this notice is a summary of the tenant's rights and specific language of the statutes governs in all instances.

### **A PERSON CANNOT BE FINED FOR REQUESTING LAW ENFORCEMENT SERVICES**

A city, town, village, or county may not enact or enforce an ordinance that imposes a fee on the owner or occupant of property for a call that is made by the owner or occupant requesting assistance from law enforcement relating to any of the following:

- Domestic abuse
- Sexual assault (first through fourth degree)
- Sexual assault of a child (first and second degree)
- Engaging in repeated acts of sexual assault of the same child
- Stalking

### **HOUSING AND DISCRIMINATION**

Wis. Stat. sec. 106.50 states that persons cannot be denied equal access to housing based on their status as a "victim of domestic abuse, sexual assault, or stalking." In addition, a tenant has a defense to an action for eviction by a landlord if the tenant proves that the landlord knew or should have known that the tenant is a victim of domestic abuse, sexual abuse, or stalking and the basis for the eviction is conduct related to the commission of that abuse/stalking by a person who:

- was not an invited guest of the tenant, or
- was the invited guest of the tenant, and the tenant has sought an injunction enjoining that person from appearing at the premises or the tenant provides a written statement to the landlord indicating that person is no longer and will not be an invited guest of that tenant.

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WCASA is a membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 60 sexual assault service provider (SASP) agencies throughout the state that offer support, advocacy and information to victims of sexual assault and their families. For information sheets on other topics and for more information about sexual assault, please visit our website. This sheet may be reproduced in its original format only. **This information does not constitute legal advice.**

**Please note that this is an abridged information sheet; the statutes have not been printed in their entirety due to space restrictions.**