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 Representatives of the United States of America in Congress assembled,  

2 SECTION 1. SHORT TITLE.  

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

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

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

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

“CHAPTER 1—GRANT PROGRAMS”;

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

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

(4) by adding at the end the following:

“CHAPTER 2—HOUSING RIGHTS

“SEC. 41411. HOUSING RIGHTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

“(a) Definitions.—In this chapter:

“(1) Appropriate agency.—The term ‘appropriate agency’ means, with respect to a covered housing program, the Executive department (as defined in section 101 of title 5, United States Code) that carries out the covered housing program.
“(2) COVERED HOUSING PROGRAM.—The term ‘covered housing program’ means—

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

“(B) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

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

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

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

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

“(G) the program under section 236 of the National Housing Act (12 U.S.C. 1715z–1);
“(H) the programs under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and 1437g);

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

“(J) the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986.

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

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

“(B) any individual living in the household of such individual who is related to such individual by blood or marriage; or

“(C) any individual living in the household of such individual who is related to such individual by affinity whose close association or intimate relationship with such individual is the equivalent of a family relationship.
“(b) Prohibited Basis for Denial or Termination of Assistance or Eviction.—

“(1) In general.—An applicant for or tenant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

“(2) Construction of lease terms.—An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as—

“(A) a serious or repeated violation of a lease for housing assisted under a covered housing program by the victim or threatened victim of such incident; or

“(B) good cause for terminating the assistance, tenancy, or occupancy rights to housing assisted under a covered housing program of the victim or threatened victim of such incident.

“(3) Termination on the basis of criminal activity.—
“(A) Denial of assistance, tenancy, and occupancy rights prohibited.—No person may deny assistance, tenancy, or occupancy rights to housing assisted under a covered housing program to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an immediate family member of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

“(B) Bifurcation.—

“(i) In general.—Notwithstanding subparagraph (A), an owner or manager of housing assisted under a covered housing program may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against
an immediate family member or other indi-

vidual, without evicting, removing, termi-
nating assistance to, or otherwise penal-
izing a victim of such criminal activity who
is also a tenant or lawful occupant of the
housing.

“(ii) Effect of eviction on other
tenants.—If an owner or manager of
housing assisted under a covered housing
program evicts, removes, or terminates as-
sistance to an individual under clause (i),
and the individual is the sole tenant eligi-
bile to receive assistance under a covered
housing program, the owner or manager of
housing assisted under the covered housing
program shall provide any remaining ten-
ant an opportunity to establish eligibility
for the covered housing program. If a ten-
ant described in the preceding sentence
cannot establish eligibility, the owner or
manager of the housing shall provide the
tenant a reasonable time, as determined by
the appropriate agency, to find new hous-
ing or to establish eligibility for housing
under another covered housing program.
“(C) **Rule of Construction.**—Nothing in subparagraph (A) shall be construed—

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

“(I) the rights of access to or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

“(II) the distribution or possession of property among members of a household in a case;

“(ii) to limit any otherwise available authority of an owner or manager of housing assisted under a covered housing program to evict or terminate assistance to a tenant for any violation of a lease not premised on the act of violence in question against the tenant or an immediate family member of the tenant, if the owner or manager does not subject an individual who is or has been a victim of domestic viol-
olence, dating violence, or stalking to a
more demanding standard than other ten-
ants in determining whether to evict or ter-
minate;

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

“(iv) to supersede any provision of
any Federal, State, or local law that pro-
vides greater protection than this section
for victims of domestic violence, dating vio-

cence, sexual assault, or stalking.

“(c) DOCUMENTATION.—

“(1) REQUEST FOR DOCUMENTATION.—If an
applicant for or tenant of housing assisted under a
covered housing program represents to the owner or
manager of the housing that the individual is enti-
tled to protection under subsection (b), the owner or
manager may request, in writing, that the tenant submit to the owner or manager a form of documentation described in paragraph (3).

“(2) FAILURE TO PROVIDE CERTIFICATION.—If a tenant does not provide the documentation requested under paragraph (1) within 14 business days after the tenant receives a request in writing for such certification from the owner or manager of the housing, nothing in this chapter may be construed to limit the authority of the owner or manager to evict any tenant or lawful occupant that commits violations of a lease. The owner or manager of the housing may extend the 14-day deadline at its discretion.

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

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

“(i) states that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

“(ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protec-
tion under subsection (b) meets the re-
quirements under subsection (b); and

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

“(B) a document that—

“(i) is signed by—

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

“(II) the applicant or tenant; and

“(ii) states under penalty of perjury
that the individual described in clause
(i)(I) believes that the incident of domestic
violence, dating violence, sexual assault, or
stalking that is the ground for protection
under subsection (b) meets the require-
ments under subsection (b);
“(C) a record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or

“(D) at the discretion of an owner or manager of housing assisted under a covered housing program, a statement or other evidence provided by an applicant or tenant.

“(4) CONFIDENTIALITY.—Any information submitted to an owner or manager under this subsection, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence by the owner or manager and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is—

“(A) requested or consented to by the individual in writing;

“(B) required for use in an eviction proceeding under subsection (b); or

“(C) otherwise required by applicable law.

“(5) DOCUMENTATION NOT REQUIRED.—Nothing in this subsection shall be construed to require an owner or manager of housing assisted under a covered housing program to request that an indi-
individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking.

“(6) Compliance not sufficient to constitute evidence of unreasonable act.—Compliance with subsection (b) by an owner or manager of housing assisted under a covered housing program based on documentation received under this subsection shall not be sufficient to constitute evidence of an unreasonable act or omission by the owner or manager or an employee or agent of the owner or manager. Nothing in this paragraph shall be construed to limit the liability of an owner or manager of housing assisted under a covered housing program for failure to comply with subsection (b).

“(7) Preemption.—Nothing in this subsection shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

“(d) Notification.—Each owner or manager of housing assisted under a covered housing program shall provide to each applicant for or tenant of such housing notice of the rights of individuals under this section, in-
cluding the right to confidentiality and the limits thereof, together with the form described in subsection (c)(3)(A)—

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

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

“(3) with any notification of eviction or notification of termination of assistance;

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

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

“(e) Emergency Transfers.—Notwithstanding any other provision of law, each owner or manager of housing assisted under a covered program shall adopt an emergency transfer policy for tenants who are victims of domestic violence, dating violence, sexual assault, or stalking that—
“(1) allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit assisted under a covered housing program if—

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

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

“(ii) in the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90 day period preceding the request for transfer; and

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

“(f) POLICIES AND PROCEDURES FOR EMERGENCY TRANSFER.—The Secretary of Housing and Urban Development shall establish policies and procedures under which a victim requesting an emergency transfer under
subsection (e) may receive, subject to the availability of
tenant protection vouchers, assistance under section 8(o)
of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

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

(b) CONFORMING AMENDMENTS.—

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

(A) in subsection (e)—

(i) by striking paragraph (3); and

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

(B) in subsection (l)—

(i) in paragraph (5), by striking “,
and that an incident or incidents of actual
or threatened domestic violence, dating vio-
ence, or stalking will not be construed as
a serious or repeated violation of the lease
by the victim or threatened victim of that
violence and will not be good cause for ter-
ominating the tenancy or occupancy rights
of the victim of such violence”; and

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

(C) by striking subsection (u).

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

(A) in subsection (c), by striking para-
graph (9);

(B) in subsection (d)(1)—

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

(ii) in subparagraph (B)—

(I) in clause (ii), by striking “,
and that an incident or incidents of
actual or threatened domestic vio-
ence, dating violence, or stalking will
not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence’’;

and

(II) in clause (iii), by striking ‘‘, except that:’’ and all that follows through ‘‘stalking.’’;

(C) in subsection (f)—

(i) in paragraph (6), by adding ‘‘and’’ at the end;

(ii) in paragraph (7), by striking the semicolon at the end and inserting a period; and

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

(D) in subsection (o)—

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

(ii) in paragraph (7)—

(I) in subparagraph (C), by striking ‘‘and that an incident or incidents of actual or threatened domestic vio-
lence, dating violence, or stalking shall not be construed as a serious or re-
peated violation of the lease by the victim or threatened victim of that vi-
olence and shall not be good cause for terminating the tenancy or occupan-
rights of the victim of such violence’’;
and

(II) in subparagraph (D), by striking ‘‘; except that’’ and all that follows through ‘‘stalking.’’; and

(iii) by striking paragraph (20); and

(E) by striking subsection (ee).

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

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

(B) to limit any right, remedy, or proce-
dure otherwise available under any provision of
part 5, 91, 880, 882, 883, 884, 886, 891, 903,
960, 966, 982, or 983 of title 24, Code of Federal Regulations, that—

(i) was issued under the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 2960) or an amendment made by that Act; and

(ii) provides greater protection for victims of domestic violence, dating violence, sexual assault, and stalking than this Act.