

Legal Protections and Options to Secure Safe and Stable Housing

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Overview

Protections for Survivors:

- Crime Victim Reparations
- Safe at Home
- Immigration
- Public Assistance Waivers
- Sex Trafficking
- Employment
- VAWA Housing Protections

Overcoming Housing Barriers:

- Applying for Housing
- Eviction Expungement
- Criminal Record Expungement
- Landlord References
- Subsidized Housing Terminations/Denials



Crime Victim Reparations

- Crime Victim Reparations Act:
 - Provides reimbursement for economic losses due to injury or death incurred by victims of violent crimes and their families.
- General Eligibility:
 - Crime must be reported to police within 30 days of incident or discovery of crime.
 - Reporting period not applicable if victim is unable to report or for certain criminal sexual conduct offenses.
 - Generally, a claim forms must be submitted within three years of injury or death.
 - Victim must cooperate fully with police and prosecutor.
 - Victim must not have committed a crime or contributed through misconduct.
- Economic Losses:
 - Loss must exceed \$50.00
 - Loss may not exceed \$50,000
- Property Damages:
 - Reimbursement for damage to property is not covered.
 - Prosecutors and Victims Assistance Programs may be able to help.
- Request for Reconsideration:
 - 30 days to apply for reconsideration



Safe at Home

- Address Confidentiality Program
- Minnesota Secretary of State
 - <http://www.sos.state.mn.us>
- Post Office Box
- Accepts Service of Process
- Absentee Voting
- Address can't be disclosed.
- Court must provide participant with notice.
- Court must consider whether potential harm to participant outweighs the interest in disclosure.
- Limited use of subpoenas to obtain confidential or privileged records about a crime victim.



Employment

Right to Time Off to Obtain a Restraining Order:

- Generally, the employee must give 48 hours notice and provide verification upon request.
- Information regarding leave must be kept confidential by employer.
- Employer cannot discharge, discipline, threaten or discriminate against an employee for taking time off.
- Employer faces misdemeanor or contempt of court for retaliation or failure to allow employee time off to obtain protective relief or attend court proceedings.



Unemployment Compensation Benefits for Survivors:

- Special Categories of unemployment compensation.
- Good Cause
- Not considered misconduct

Family and Medical Leave Act:

- Serious health condition
- 12 work weeks of leave
- Eligibility
- Provide 30 days notice.
- Unpaid, unless you have paid leave.
- Employer must continue health coverage.
- Employee must be restored to their original or equivalent positions.

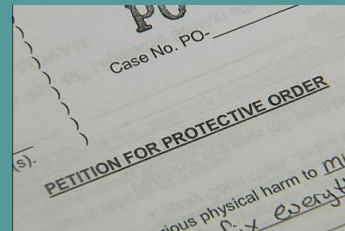
Employment Continued

- Reasonable Workplace Accommodations for Disabled Employees
 - Americans with Disabilities Act of 1990
 - Minnesota Human Rights Act
 - Reasonable accommodation or modification of the job.
 - Meaning of disabled
 - Reasonable Accommodation
 - Request in writing
 - Medical verification.
- Discrimination Remedies
 - Three Avenues
 - State complaint
 - Federal complaint
 - Discrimination lawsuit
- Dealing with Criminal Convictions and Collateral Employment Consequences
 - Both parties charged
 - Disqualify employee from employment that requires a license.
 - Misdemeanors can be expunged, felony domestic violence crimes can't be.
 - Order for Expungement



Immigration

- VAWA Self-Petition and Cancellation of Deportation
- Conditional Residents
- Victims of Crime and U Visas
- Public Assistance
- Order for Protection Issues
 - Access to Immigration Documents
 - Deportation Concerns
 - Dealing with Courtroom Questions About Immigration Status



Public Assistance

- Good Cause For Program Non-Compliance
- Family Violence Waiver
 - Notification
 - Rights



Sex Trafficking

- Safe Harbor for Sexually Exploited Youth
 - Safe Harbor Law
 - No Wrong Door
- Trafficking Victim Protection Act
 - Severe Trafficking
 - Involuntary Servitude
 - Federal Remedies
 - Federal Trafficking Crimes

Housing Protections for Survivors

- Violence Against Women Act (VAWA)
- Housing Protections for Federally Subsidized Housing Tenants and Applicants.
 - Covered Programs
 - Covered Individuals
 - Rights and Protections
 - Limitations on VAWA's Protections
- Minnesota Housing Protections for All Tenants Experiencing Domestic Abuse
 - Right to Break a Lease
 - Right to Seek Emergency Assistance
 - Protections Against Eviction
 - Landlord's duty to Provide Safe Housing
- Housing Discrimination and Domestic Abuse
 - Sexual Harassment/ Discrimination
 - Reasonable Rental Accommodations for Disabled Tenants
 - Discrimination Remedies



Overcoming Barriers

What if a person is having difficulty finding housing due to his or her background?



What to Consider When Applying



- Tenant must be honest on application!
- Landlords can look up court records or will pay companies to perform background checks - they will find the information.
 - Companies (like Rental History Reports) will perform background checks looking for criminal records, evictions, judgments/debts owed, and landlord references.
 - If denied an apartment, tenant can request the background check results from the company that performed it.
 - Free within 60 days of housing denial.
- If negative history, better to explain it upfront.
 - But there are other options including eviction and criminal record expungements.
- Landlord can deny an applicant for poor credit, rental history and/or criminal background.
 - Landlord cannot deny an applicant for a discriminatory reason.
- May have appeal rights if denied housing.

Eviction Expungement



- Evictions (or unlawful detainers) will remain on the public court records
 - Anyone can see the records on MNCIS even if case settled or tenant won.
 - Background screening companies will find them too (like Rental History Reports)
- Only way the record will be removed is by an expungement
 - Means the court record is sealed from public view.
 - The landlord can agree to expunge; or
 - The tenant can make a motion with the court to expunge
 - Judge will decide whether to grant expungement or not.
- If expungement granted or agreed to by the parties, the case will be removed from the court records.

Criminal Record Expungement



- Landlords can deny due to criminal record
- Tenants with a criminal record can petition the court for expungement.
 - This seals the court records if granted.
 - Law was expanded in 2015.
- Can petition for petty misdemeanors, misdemeanors, gross misdemeanors and some felonies.
- Not a quick process; can take 6-9 months at least.
- Need to show an actual harm caused by record and rehabilitation since criminal act.
- Judge will decide after a hearing whether to grant request.
 - Prosecutor and other agencies with the records can object.

Negative Landlord Reference



- Can be denied housing due to poor rental history.
- Try for a mutual lease termination to prevent an eviction being filed.
- We also try to negotiate for a neutral reference with the landlord
 - This typically means the landlord can only give information concerning how long a tenant lived at the property and rent payment history.
 - No requirement that a landlord agree to this.
- Tenant should keep documentation or log of issues or incidents that occur.
 - Could help later with potential landlord to overcome negative reference.
- Put the focus on any positive landlord references.

Subsidized Housing



- Poor rental and credit history and criminal backgrounds result in many affordable housing denials.
 - Programs must offer informal appeal hearings for applicant to explain background, including mitigating circumstances.
 - HUD has issued guidance suggesting Housing Authorities revise its criteria concerning criminal record lookback periods.
- Eviction from assisted housing is a mandatory termination for the Section 8 Housing Choice Voucher Program.
- HUD uses system that can track debts owed to, and evictions or terminations from any Housing Authority in the country.



Questions



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