

CALIFORNIA

California has enacted the following laws regarding survivors' housing rights:

- Lock changes. CAL. CIV. CODE §§ 1941.5, 1941.6
- Early lease termination by the victim. CAL. CIV. CODE § 1946.7
- Unlawful detainer by the perpetrator. CAL. CIV. PROC. CODE § 1161
- A landlord shall not terminate a tenancy based upon an act against a tenant that constitute domestic violence. CAL. CIV. PROC. CODE § 1161.3
- A court may issue an order excluding a party from the petitioner's dwelling, regardless of which party holds title or is the lessee of the dwelling. CAL. FAM. CODE § 6321
- Address confidentiality program. CAL. GOV'T CODE §§ 6205-6217
- Public housing reports on terminations of tenancies of victims of domestic violence in housing authority units, and terminations of Section 8 vouchers of victims of domestic violence. CAL. HEALTH & SAFETY CODE § 34328.1

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Lock changes where victim does not live with perpetrator

CAL. CIV. CODE § 1941.5

(a) This section shall apply if a person who is restrained from contact with the protected tenant under a court order or is named in a police report is not a tenant of the same dwelling unit as the protected tenant.

(b) A landlord shall change the locks of a protected tenant's dwelling unit upon written request of the protected tenant not later than 24 hours after the protected tenant gives the landlord a copy of a court order or police report, and shall give the protected tenant a key to the new locks.

(c) (1) If a landlord fails to change the locks within 24 hours, the protected tenant may change the locks without the landlord's permission, notwithstanding any provision in the lease to the contrary.

(2) If the protected tenant changes the locks pursuant to this subdivision, the protected tenant shall do all of the following:

(A) Change the locks in a workmanlike manner with locks of similar or better quality than the original lock.

(B) Notify the landlord within 24 hours that the locks have been changed.

(C) Provide the landlord with a key by any reasonable method agreed upon by the landlord and protected tenant.

(3) This subdivision shall apply to leases executed on or after the date the act that added this section takes effect.

(d) For the purposes of this section, the following definitions shall apply:

(1) "Court order" means a court order lawfully issued within the last 180 days pursuant to Section 527.6 of the Code of Civil Procedure, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 of the Welfare and Institutions Code.

(2) "Locks" means any exterior lock that provides access to the dwelling.

(3) "Police report" means a written report, written within the last 180 days, by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity, stating that the protected tenant or a household member has filed a report alleging that the protected tenant or the household member is a victim of domestic violence, sexual assault, or stalking.

(4) "Protected tenant" means a tenant who has obtained a court order or has a copy of a police report.

(5) "Tenant" means tenant, subtenant, lessee, or sublessee.

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Lock changes where victim lives with perpetrator

CAL. CIV. CODE § 1941.6

(a) This section shall apply if a person who is restrained from contact with a protected tenant under a court order is a tenant of the same dwelling unit as the protected tenant.

(b) A landlord shall change the locks of a protected tenant's dwelling unit upon written request of the protected tenant not later than 24 hours after the protected tenant gives the landlord a copy of a court order that excludes from the dwelling unit the restrained person referred to in subdivision (a). The landlord shall give the protected tenant a key to the new locks.

(c) (1) If a landlord fails to change the locks within 24 hours, the protected tenant may change the locks without the landlord's permission, notwithstanding any provision in the lease to the contrary.

(2) If the protected tenant changes the locks pursuant to this subdivision, the protected tenant shall do all of the following:

(A) Change the locks in a workmanlike manner with locks of similar or better quality than the original lock.

(B) Notify the landlord within 24 hours that the locks have been changed.

(C) Provide the landlord with a key by any reasonable method agreed upon by the landlord and protected tenant.

(3) This subdivision shall apply to leases executed on or after the date the act that added this section takes effect.

(d) Notwithstanding Section 789.3, if the locks are changed pursuant to this section, the landlord is not liable to a person excluded from the dwelling unit pursuant to this section.

(e) A person who has been excluded from a dwelling unit under this section remains liable under the lease with all other tenants of the dwelling unit for rent as provided in the lease.

(f) For the purposes of this section, the following definitions shall apply:

(1) "Court order" means a court order lawfully issued within the last 180 days pursuant to Section 527.6 of the Code of Civil Procedure, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 of the Welfare and Institutions Code.

(2) "Locks" means any exterior lock that provides access to the dwelling.

(3) "Protected tenant" means a tenant who has obtained a court order.

(4) "Tenant" means tenant, subtenant, lessee, or sublessee.

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Early lease termination by victim

CAL. CIV. CODE § 1946.7

(a) A tenant may notify the landlord that he or she or a household member was a victim of an act that constitutes an act of domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Sections 261, 261.5, 262, 286, 288a, or 289 of the Penal Code, stalking as defined in Section 1708.7, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, and that the tenant intends to terminate the tenancy.

(b) A notice to terminate a tenancy under this section shall be in writing, with one of the following attached to the notice:

(1) A copy of a temporary restraining order, emergency protective order, or protective order lawfully issued pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2 of the Penal Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from further domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult.

(2) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity, stating that the tenant or household member has filed a report alleging that he or she or the household member is a victim of domestic violence, sexual assault, or stalking.

(c) The notice to terminate the tenancy shall be given within 180 days of the date that any order described in paragraph (1) of subdivision (b) was issued, within 180 days of the date that any written report described in paragraph (2) of subdivision (b) was made, or within the time period described in Section 1946.

(d) If notice to terminate the tenancy is provided to the landlord under this section, the tenant shall be responsible for payment of rent for 30 days following the giving of the notice, or within the appropriate period as described in Section 1946, and thereafter shall be released from any rent payment obligation under the rental agreement without penalty. Existing law governing the security deposit shall apply.

(e) If within the 30 days following the giving of the notice under this section the tenant quits the premises and the premises are rented to another party, the rent due on the premises for that 30-day period shall be prorated. Existing law governing the security deposit shall apply.

(f) Nothing in this section relieves a tenant, other than the tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, or stalking and members of that tenant's household, from their obligations under the rental agreement.

(g) "Household member" as used in this section means a member of the tenant's family who lives in the same household as the tenant.

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Eviction DefenseCAL. CIV. PROC. CODE § 1161.3

(a) Except as provided in subdivision (b), a landlord shall not terminate a tenancy or fail to renew a tenancy based upon an act or acts against a tenant or a tenant's household member that constitute domestic violence as defined in Section 6211 of the Family Code, sexual assault as defined in Section 1219, stalking as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, or abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code, if both of the following apply:

(1) The act or acts of domestic violence, sexual assault, or stalking have been documented by one of the following:

(A) A temporary restraining order, emergency protective order, or protective order lawfully issued within the last 180 days pursuant to Section 527.6, Part 3 (commencing with Section 6240), Part 4 (commencing with Section 6300), or Part 5 (commencing with Section 6400) of Division 10 of the Family Code, Section 136.2 of the Penal Code, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant or household member from domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult.

(B) A copy of a written report, written within the last 180 days, by a peace officer employed by a state or local law enforcement agency acting in his or her official capacity, stating that the tenant or household member has filed a report alleging that he or she or the household member is a victim of domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult.

(2) The person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, or abuse of an elder or dependent adult is not a tenant of the same dwelling unit as the tenant or household member.

(b) A landlord may terminate or decline to renew a tenancy after the tenant has availed himself or herself of the protections afforded by subdivision (a) if both of the following apply:

(1) Either of the following:

(A) The tenant allows the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, stalking, or abuse of an elder or a dependent adult to visit the property.

(B) The landlord reasonably believes that the presence of the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, or stalking poses a physical threat to other tenants, guests, invitees, or licensees, or to a tenant's right to quiet possession pursuant to Section 1927 of the Civil Code.

(2) The landlord previously gave at least three days' notice to the tenant to correct a violation of paragraph (1).

(c) Notwithstanding any provision in the lease to the contrary, the landlord shall not be liable to any other tenants for any action that arises due to the landlord's compliance with this section.

(d) For the purposes of this section, "tenant" means tenant, subtenant, lessee, or sublessee.

(e) The Judicial Council shall, on or before January 1, 2014, develop a new form or revise an existing form that may be used by a party to assert in the responsive pleading the grounds set forth in this section as an affirmative defense to an unlawful detainer action.

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Ex parte order excluding party from dwelling

CAL. FAM. CODE § 6321

(a) The court may issue an ex parte order excluding a party from the family dwelling, the dwelling of the other party, the common dwelling of both parties, or the dwelling of the person who has care, custody, and control of a child to be protected from domestic violence for the period of time and on the conditions the court determines, regardless of which party holds legal or equitable title or is the lessee of the dwelling.

(b) The court may issue an order under subdivision (a) only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(3) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

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Application to have address designated by Secretary of State serve as person's address

CAL. GOV'T CODE § 6206

(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor or incapacitated person. An application shall be completed in person at a community-based victims'

assistance program. The application process shall include a requirement that the applicant shall meet with a victims' assistance counselor and receive orientation information about the program. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains all of the following:

(1) A sworn statement by the applicant that the applicant has good reason to believe both of the following:

(A) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, or stalking.

(B) That the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(2) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or sexual assault, the application may be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Documentation from a domestic violence or sexual assault program if the person is alleged to be a victim of domestic violence or sexual assault.

(C) Documentation from a legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged domestic violence or sexual assault.

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence or sexual assault.

(3) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of stalking, the application shall be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged stalking.

(C) Any other evidence that supports the sworn statement, such as a sworn statement from any other individual with knowledge of the circumstances that provide the basis for the claim, or physical evidence of the act or acts of stalking.

(4) The name and last known address of the applicant's minor child or children, the name and last known address of the other parent or parents of the minor child or children of the applicant, and all court orders related to the minor child or children of the applicant, and legal counsel of record in those cases.

(5) A designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail.

(A) Service on the Secretary of State of any summons, writ, notice, demand, or process shall be made by delivering to the address confidentiality program personnel of the Office of the Secretary of State two copies of the summons, writ, notice, demand, or process.

(B) If a summons, writ, notice, demand, or process is served on the Secretary of State, the Secretary of State shall immediately cause a copy to be forwarded to the program participant at the address shown on the records of the address confidentiality program so that the summons, writ, notice, demand, or process is received by the program participant within three days of the Secretary of State's having received it.

(C) The Secretary of State shall keep a record of all summonses, writs, notices, demands, and processes served upon the Secretary of State under this section and shall record the time of that service and the Secretary of State's action.

(D) The office of the Secretary of State and any agent or person employed by the Secretary of State shall be held harmless from any liability in any action brought by any person injured or harmed as a result of the handling of first-class mail on behalf of program participants.

(6) The mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State.

(7) The address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, or stalking.

(8) The signature of the applicant and of any individual or representative of any office designated in writing under Section 6208.5 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the Secretary of State.

(c) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall by rule establish a renewal procedure. A minor program participant, who reaches 18 years of age during his or her enrollment, may renew as an adult following the renewal procedures established by the Secretary of State.

(d) Upon certification, the Secretary of State shall, within 10 days, notify the other parent or parents identified pursuant to paragraph (4) of subdivision (a) of the designation of the Secretary of State as agent for purposes of service of process and, unless there is a court order prohibiting contact, the address designated by the Secretary of State for the program participant. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record, if provided to the Secretary of State by the applicant.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor. A notice shall be printed in bold type and in a conspicuous location on the face of the application informing the applicant of the penalties under this subdivision.

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Public housing reports

CAL. HEALTH & SAFETY CODE § 34328.1

(a) Every housing authority shall file on the first day of October of each year with the Department of Housing and Community Development a complete report of its activities during the previous fiscal year, with recommendations for needed legislation to carry on properly a program of housing and community development in this state.

(b) The authority shall provide the Department of Housing and Community Development funds as requested by the department to reimburse the department for the cost of processing the report required by this section.

(c) (1) The report shall include data on terminations of tenancies of victims of domestic violence in housing authority units, and terminations of Section 8 vouchers of victims of domestic violence. The data shall be included in all cases where a notice of termination was given, regardless of whether the termination was based in whole or in part on activity related to the domestic violence, and whether the notice resulted in the victim vacating the premises or actual termination of the voucher.

(2) For each termination, the report shall briefly specify steps taken, if any, by the authority to address the situation or assist the victim prior to the termination, and, if known, the subsequent housing obtained by the victim. If no steps were taken, the authority may include an explanation of why none were deemed necessary.

(3) The report shall include data on terminations of all victims of domestic violence, as reported or known to the authority, its employees, or agents, whether or not an arrest was made or any report was filed.

(4) The report may include any other information regarding domestic violence victim terminations deemed relevant by the authority.

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