

**SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session**

SB 1190 (Durazo)

Version: May 13, 2020

Hearing Date: May 22, 2020

Fiscal: Yes

Urgency: No

AM

SUBJECT

Tenancy: termination

DIGEST

This bill extends existing provisions of law authorizing a tenant to terminate a tenancy in 14 days when the tenant or a household member becomes a victim of domestic violence, sexual assault, stalking, human trafficking, or elder and dependent adult abuse to also apply if an immediate family member is a victim of those crimes, and expands those provisions to include a crime that caused physical injury, emotional injury and the threat of physical injury, or death. This bill also makes the Tenant Protection Act of 2019 (AB 1482; Ch. 597, Stats. 2019; hereafter the Act) enforceable by the Attorney General, a city attorney, district attorney, or county counsel, and authorizes the legislative body of a local government to designate a local agency to investigate and enforce the provision of the Act, as provided.

EXECUTIVE SUMMARY

The Legislature has recognized that victims of domestic violence, sexual assault, stalking, human trafficking, and elder and dependent adult abuse face numerous challenges when seeking to regain control of their lives. In response to these challenges, the Legislature has authorized a tenant to terminate a tenancy in 14 days when the tenant or a household member becomes a victim of one of those crimes. Those crimes; however, are not the only ones that pose challenges for victims. Victims of other violent crimes face many of the same challenges – a need to relocate quickly, emotional trauma, potential exposure to additional violence, and a need to regain control of their lives and have a safe environment for themselves and their family. This bill seeks to expand existing protections for tenants who are victims of other violent crimes and extend these provisions to the situation where an immediate family member of the tenant is a victim of those crimes. The bill also provides additional local enforcement for the provisions of the Act, as provided. This bill is sponsored by Californians for Safety and Justice and supported by organizations representing victims of crime and violence, public health

advocates, and two individuals. The bill is opposed by organizations representing landlords and apartment owners and the California Association of Realtors.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Authorizes a tenant to terminate a tenancy in 14 days when the tenant or a household member was a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult. (Civ. Code § 1946.7(a).)
 - a) In order to terminate a tenancy, the tenant must notify the landlord in writing of the intent to terminate with one of the following attached:
 - i. a copy of a court order protecting the tenant or household member from further violence or abuse, as specified;
 - ii. a copy of a written report by a peace officer, as specified; or
 - iii. documentation from a qualified third party based on information received by that third party while acting in the third party's professional capacity, as specified. (Civ. Code § 1946.7(b).)
 - b) The notice to terminate tenancy must be given within 180 days of the date that any order was issued, or within 180 days of the date that any written report was made, or the time period otherwise required for termination of tenancy. (Civ. Code § 1946.7(c).)
 - c) If a notice to terminate the tenancy is provided to the landlord under the above provisions, the tenant shall be responsible for payment of rent for 14 days following the giving of the notice, as specified, and thereafter shall be released from any rent payment obligation under the rental agreement without penalty. (Civ. Code § 1946.7(d).)
 - d) Provides that existing state law governing the security deposit is to apply. (Civ. Code § 1946.7(d).)
 - e) Provides that these provisions do not relieve a tenant, other than the tenant who is, or who has a household member who is, a victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult and members of the tenant's household, from their obligations under the lease or rental agreement. (Civ. Code § 1946.7(e).)
 - f) Defines "household member," as a member of the tenant's family who lives in the same household as the tenant. (Civ. Code § 1946.7(f)(1).)
 - g) Defines "qualified third party," as a health practitioner or a domestic violence counselor, a sexual assault counselor, or a human trafficking caseworker, as defined in Sections 1037.1, 1035.2, and 1038.2 of the Evidence Code, respectively. (Civ. Code § 1946.7(f)(2).)

- 2) Provides the following protections for tenants under the Act until January 1, 2030.
 - a) Prohibits specified landlords from raising rents on current tenants by more than 5 percent plus the percentage change in the cost of living, as defined, or 10 percent, whichever is lower, over any 12-month period. (Civ. Code § 1947.12(a) & (b).)
 - i. Exempts specified types of rentals from the rent increase limitation. (Civ. Code § 1947.12(d).)
 - ii. Provides that, upon meeting specified criteria, the owner of deed-restricted affordable housing or an assisted housing development is not subject to the rent increase limitations contained in the Act for purposes of setting the initial, post-restriction rental rate. (Civ. Code § 1947.13.)
 - b) Provides that, once a tenant has occupied residential real property for 12 months, the landlord is prohibited from terminating the lease without just cause, which must be stated in the written notice to terminate tenancy. Additional time may apply, as specified, if an additional adult occupant moves in. (Civ. Code § 1946.2(a).)
 - i. Divides just cause into two categories: at-fault and no-fault, as defined. (Civ. Code § 1946.2(b).)
 - ii. Requires a landlord who terminates the tenancy based on a no-fault just cause to provide relocation assistance to the displaced tenant in an amount equal to one month's rent, unless a court or government agency determines that the tenant caused the condition requiring the vacancy. The owner and tenant may also agree, in lieu of direct payment, to waive the payment of rent for the month after the notice of termination of tenancy is given. The relocation assistance is recoverable as damages in an eviction lawsuit if the tenant fails to vacate after expiration of the notice terminating the tenancy. (Civ. Code § 1946.2(d).)
 - iii. Exempts specified types of rentals from the just cause requirement for terminating a tenancy. (Civ. Code § 1946.2(e).)
 - c) Requires landlords to notify tenants of the Act's limitations on rent increases and its requirement of just cause for eviction, as specified. (Civ. Code § 1946.2(f) & 1947.12(e).)

This bill:

- 1) Authorizes a tenant to terminate a tenancy in 14 days when an immediate family member was the victim of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult.
 - a) Adds a crime that caused physical injury, emotional injury and the threat of physical injury, or death to the existing crimes for which a tenant may terminate the lease if the tenant, a household member, or immediate family member was a victim.

- b) Defines "immediate family member" as the mother, father, stepmother, stepfather, spouse, son, son-in-law, daughter, daughter-in-law, stepchild, brother, or sister of the tenant, or any person living in the tenant's household at the time the prescribed crime occurred who is a family member of the tenant or who has a relationship with the tenant that is substantially similar to that of a family member.
- c) Authorizes as an additional form of documentation that can be provided to the landlord:
 - i. a written statement from the tenant stating that the tenant, a household member, or an immediate family member was a victim of an eligible act or crime, as provided; or
 - ii. any other form of documentation that reasonably verifies that the eligible crime or act occurred.
- d) Provides that if the tenant who is terminating tenancy under these provisions is an immediate family member of a victim of an eligible act or crime and that tenant did not live in the same household as the victim of the eligible act or crime at the time of the act or crime, and no part of the act or crime occurred within the dwelling unit or within 1,000 feet of the dwelling unit of the tenant, the tenant must attach to the documentation provided to the landlord a written statement stating all of the following:
 - i. the tenant's immediate family member was a victim of an eligible act or crime;
 - ii. the tenant intends to relocate as a result of the act or crime, or as a result of the tenant's status as an immediate family member of the victim; and
 - iii. the tenant is relocating to increase the safety, physical well-being, emotional well-being, psychological well-being, or financial security of the tenant or of the tenant's immediate family member as a result of the act or crime.
- e) Requires the notice to terminate the tenancy to be given within 180 days of the date that a crime that caused physical injury, emotional injury and the threat of physical injury, or death occurred.
- f) Prohibits a landlord from requiring a tenant who terminates a lease under these provisions to forfeit any security deposit money or advance rent paid due to that termination. A tenant who terminates a rental agreement under these provisions cannot be considered for any purpose, by reason of the termination, to have breached the lease or rental agreement.
- g) Prohibits an owner or owner's agent from refusing to rent a dwelling unit to an otherwise qualified prospective tenant or to refuse to continue to rent to an existing tenant solely on the basis that the tenant has previously exercised the tenant's rights under these provisions or has previously terminated a tenancy under these provisions.
- h) Makes various conforming changes.

- 2) Authorizes the Act to be enforced by the Attorney General, any city attorney, including the city attorney of a city and county, any district attorney, or any county counsel, who, notwithstanding any other law, may utilize existing state or local laws to bring suit to enjoin and remedy violations of the Act in any court of competent jurisdiction. Specifies that a party may seek judicial review of a determination made pursuant to these provisions in accordance with Section 1094.5 of the Code of Civil Procedure.
- 3) Authorizes the legislative body of a local government to create or designate a local agency to investigate and enforce the Act.
 - a) The designated local agency may, among other things, do the following:
 - i. Accept administrative claims for violations of the Act.
 - ii. Investigate complaints.
 - iii. Make determinations of violations of the Act.
 - iv. Hold administrative hearings.
 - v. Award restitution or levy fines, not to exceed \$20,000.
 - b) The designated local agency may promulgate and enforce rules and administrative procedures that provide adequate notice and opportunity for all parties to be heard, including, but not limited to, evidentiary rules created for the fair and efficient conduct of investigations and hearings, to carry out the purposes of this section.
 - c) Specifies that a party may seek judicial review of a determination made pursuant to these provisions in accordance with Section 1094.5 of the Code of Civil Procedure.

COMMENTS

1. Stated need for the bill

The Author writes:

One of the most fundamental human needs is the security of a stable, safe home. I am proposing protections for tenants experiencing the most vulnerable circumstances such as victimization. After a violent crime, victims and their family/household members may need to relocate quickly. Staying in the victims' home may increase the risk of developing Post-Traumatic Stress Disorder (PTSD) and expose victims to further violence.

California law ensures that victims of domestic violence, sexual assault, stalking, human trafficking, and abuse of an elder or a dependent adult and family members who live in their household can terminate a lease without penalty following victimization. However, victims of other violent crimes (e.g., co-victims of homicide, survivors of gun violence, and survivors of robbery) and their family and household members do not have the same relocation opportunities. When victims of other

violent crimes make the difficult decision to break their lease, these victims and their family/household members fall into further financial and housing insecurity. Breaking a lease could leave tenants responsible for financial penalties, mark the tenants' credit score and lead to future landlords discriminating against the tenants. SB 1190 would codify relocation protections for victims and family/household members of violent crimes within 180 days following a crime.

In the second part of the bill, I am proposing local enforcement of existing tenant protections. Last year, I proposed SB 529, which would have protected and strengthened tenant associations and required evictions for cause. Fortunately, Assemblymember Chiu's historic bill, AB 1482, did pass, which codified just cause protections and rent caps. However, AB 1482 has limited enforcement mechanisms. Tenants must take their cases to the Attorney General, and there has been little guidance on this process.

SB 1190 would allow enforcement by local government. This means that a city attorney, including the city attorney of a city and county, any district attorney, or any county counsel can enforce tenant protections. With the help of local governments, tenants should be able to assert their legal rights without fear of intimidation or retaliation, and expect humane living standards. Central to the ability of individuals to join and assert their rights is a strong system of laws and protections that mitigate the risk of intimidation and retaliation. A more equitable playing field for tenants is inseparable from our vision of Production, Preservation, and Protection.

2. Expansion of crime victim's protections

Victims of domestic violence, sexual assault, stalking, human trafficking, and elder and dependent adult abuse face numerous challenges when seeking to regain control of their lives. Depending on the situation, victims may need to change their telephone number, participate in the Safe at Home Program through the Secretary of State, or even move to create a safe environment for themselves and their family. The Legislature has recognized that victims of these crimes who rent their homes face additional challenges when attempting to leave a dangerous environment if they are a party to a long-term lease. Absent a voluntary release from their landlord, victims who are forced to relocate in order to find safety could find themselves subject to liability for breaching their leases. In response to these challenges, the Legislature enacted Section 1946.7 of the Civil Code in 2008 to assist victims of domestic violence, sexual assault, and stalking, and have amended that section over the years to additionally expand its provision to victims of human trafficking and elder or dependent adult abuse.¹

¹ See Prior Legislation section at the end of the Analysis for further detail of the various changes to Section 1946.7 of the Civil Code since its enactment in 2008.

a. Expansion of protections for victims of other violent crimes

This bill seeks to expand the protections provided in Section 1946.7 of the Civil Code to victims of other violent crimes (such as robbery, murder, or aggravated assault) by including a crime that caused physical injury, emotional injury and the threat of physical injury, or death to the list of crimes for which a tenant may terminate the tenancy. Victims of other violent crimes face many of the same hardships that victims of domestic violence, sexual assault, stalking, human trafficking, and elder and dependent adult abuse face. According to a report from the University of California, Berkeley School of Law's International Human Rights Law Clinic that presented findings from a study of family members of unsolved murder victims in Oakland, California:

The family members of homicide victims experience diverse, intense, and prolonged impacts that affect every dimension of their lives: psychological, emotional, behavioral, physical, financial, occupational, social, and spiritual. Each homicide affects an estimated six to 10 family members in addition to friends, co-workers, and significant others. [footnote omitted] Family members commonly experience anxiety, depression, complicated grief, and post-traumatic stress disorder (PTSD). [footnote omitted] The majority of the family members of homicide victims – 57.4% according to one study – develop a mental health disorder.²

That report further noted that due to the psychological, emotional, and physical effects experienced by family members of homicide victims many family members cannot resume normal day-to-day functions, with one study showing 27 percent of family members who were interviewed quit their jobs within two years of the murder and that many had their “sense of place in the world” altered and that a world that once felt safe became one that was threatening and cruel.³

A report from the U.S. Department of Justice found that 68 percent of victims of serious violent crimes (rape, sexual assault, robbery, or aggravated assault) “reported experiencing socio-emotional problems as a result of their victimization.”⁴ Evidence shows that “the risk of becoming a victim of violent crime is not equally distributed in society” with low-income person living in urban areas being at a higher risk of becoming a victim of violent crime.⁵ Individuals with annual incomes of less than \$15,000 a year are twice as often victims of violent crimes than those with higher

² Altholz, *Living With Impunity* (Jan. 2020) U.C. Berkley, School of Law, International Human Rights Law Clinic, <https://www.law.berkeley.edu/experiential/clinics/international-human-rights-law-clinic/living-with-impunity-unsolved-oakland-murders/> (as of May 15, 2020) at 11.

³ *Id.* at 11-12.

⁴ Langton and Truman, *Socio-emotional Impact of Violent Crime*, (Sept. 2014) U.S. Dep’t of Justice <https://www.bjs.gov/content/pub/pdf/sivc.pdf> (as of May 11, 2020) at 1.

⁵ Kelly et. al. *Outreach, Engagement, and Practical Assistance: Essential Aspects of PTSD Care for Urban Victims of Violent Crime* (Jun. 15, 2010) 11 Trauma, Violence & Abuse 144-156, at 145.

incomes, and people living in urban areas experience 60 percent more crimes than those in suburban areas.⁶

Some of the opposition raise an issue that the new crime language is ambiguous as it relates to the inclusion of a crime that caused emotional injury and the threat of physical injury, stating that the term “emotional injury” is undefined and it would be difficult for landlords to rebut the tenant’s notice under this provision. In light of the goal of the bill in providing additional protections to victims of other violent crimes the author may wish to amend the bill to provide more specificity about what other types of violent crimes a tenant would be authorized to terminate a tenancy.

b. Expansion of protections to also apply if an immediate family member of the tenant is a victim of a crime

In addition to expanding protections to victims of other violent crimes, the bill seeks to include the situation where an immediate family member of the tenant is a victim of one of the specified crimes as a reason a tenant can terminate the tenancy. The bill defines immediate family member as the mother, father, stepmother, stepfather, spouse, son, son-in-law, daughter, daughter-in-law, stepchild, brother, or sister of the tenant, or any person living in the tenant’s household at the time the specified crime occurred who is a family member of the tenant or who has a relationship with the tenant that is substantially similar to that of a family member.

As noted above, victims of violent crimes face many socio-emotional and economic issues. If a tenant’s immediate family member is a victim of a violent crime, the immediate family member may need to relocate from their current residence or need additional support from family to recover emotionally and financially. For example, the tenant may wish to move in with the family member, move to a new residence with the family member, or simply move closer to the family member to assist in the family member’s recovery from the effects of the violent crime. Absent a voluntary release from the tenant’s landlord, a tenant who seeks to relocate to assist the family member who is a victim of a crime could find themselves subject to liability for breaching the tenant’s lease. Many of the same policy reasons for allowing a tenant to terminate a tenancy when the tenant or a household member is a victim of a crime also exist for the situation where an immediate family member of the tenant is a victim of domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse, or other violent crimes.

Opposition to the bill disfavor the inclusion of an immediate family member because the immediate family member could be located anywhere in the world and does not need to be living with the tenant. The entire reason the bill is adding immediate family member is to allow a tenant to terminate the tenancy in order to relocate to assist the

⁶ *Id.*

immediate family member who was a victim of a crime even if the immediate family member does not currently live with the tenant. In this vein, the bill requires a tenant providing notice to terminate because an immediate family member is a victim of one of the specified crimes to include an additional statement with the required documentation that includes a written statement saying: the tenant's immediate family member was a victim of one of the specified crimes, the tenant intends to relocate as a result of the crime, and the tenant is relocating to increase the safety, physical well-being, emotional well-being, psychological well-being, or financial security of the tenant or tenant's immediate family member as a result of the crime.

It should be noted that the definition of "household member" means a member of the tenant's family who lives in the same household as the tenant. (Civ. Code § 1946.7((f)(1).) If an immediate family member was living with the tenant they would meet the definition of a "household member" and already be covered by the provisions of existing law and, therefore, it is redundant to also include any person living in the tenant's household at the time the crime or act occurred who is a family member in the definition of immediate family member. The author may wish to deal with this by removing the redundant language from the definition of immediate family member.

The definition of immediate family member also includes any person living in the tenant's household at the time the crime or act occurred who has a relationship with the tenant that is substantially similar to that of a family member. As noted previously, the definition of household member requires the person living in the household to be a family member of the tenant. This leaves a potential gap for persons who are cohabiting and in a dating relationship but are not spouses and persons who are fiancées or for other types of relationships such as a person with whom the respondent has had a child. These types of relationships are already recognized under Section 6211 of the Family Code as being persons upon whom domestic violence abuse is perpetrated.

c. Expansion of documentation that can be provided to a landlord to terminate tenancy

The bill includes two additional types of documentation that can be provided to the landlord to terminate tenancy: (1) a written statement from the tenant stating that the tenant, a household member, or an immediate family member was a victim of an eligible act or crime, and (2) any other form of documentation that reasonably verifies that the crime or act occurred. Some of the opposition has raised concerns that a statement from the tenant without any additional verification or information from a third-party could lead to abuse. In order to address this concern the author may wish to instead additionally allow for a victim advocate for victims of violent crime to be included as a qualified third party that can fill out and sign the documentation that can be provided to a landlord when giving notice to terminate a tenancy. Existing law already allows domestic violence counselors, sexual assault counselors, and human trafficking caseworkers to fill out and sign the documentation in addition to other health practitioners.

3. Expanding local enforcement of the Act

The Act limits rent-gouging in California by preventing landlords with more than 10 rental properties from raising the rent more than 5 percent plus inflation each year, up to a hard cap of 10 percent, and requires landlords to have and to state a just cause for any eviction.⁷ These provisions are repealed on January 1, 2030. Under the just cause eviction provisions, a landlord who terminates the tenancy based on a no-fault just cause is required to provide relocation assistance to the displaced tenant in an amount equal to one month's rent, unless a court or government agency determines that the tenant caused the condition requiring the vacancy. The owner and tenant may agree, in lieu of direct payment, to waive the payment of rent for the month after the notice of termination of tenancy is given.

Tenant's face many issues when seeking to enforce their rights, including financial hurdles and difficulty navigating the court system. In order to ensure that tenants' rights under the act are enforced, this bill seeks to do two things. First, it authorizes the Attorney General, any city attorney, including the city attorney of a city and county, any district attorney, or any county counsel to utilize existing state or local laws to bring suit to enjoin and remedy violations of the Act in any court of competent jurisdiction. The Attorney General already has authority to enforce the provisions of the Act under existing law and therefore it is unnecessary to provide an additional authorization. Since the author's goal is to provide for the ability to of local governments to enforce the Act's provisions, the author may wish to amend the bill to simply authorize any city attorney, including the city attorney of a city and county, any district attorney, or any county counsel to bring suit to enjoin and remedy violations of the Act in any court of competent jurisdiction and to specify that that the bill is not intended to limit enforcement of the Act under any other existing provision of law.

Second, the bill authorizes the legislative body of a local government to create or designate a local agency to investigate and enforce the Act, including investigating complaints, accepting administrative claims, making determinations, and holding administrative hearings for violations of the Act, and awarding restitution or fines not to exceed \$20,000. The bill authorizes the designated local agency to promulgate and enforce rules and administrative procedures that provide adequate notice and opportunity for all parties to be heard, including, but not limited to, evidentiary rules created for the fair and efficient conduct of investigations and hearings, to carry out the purposes of this section. The author may wish to amend these provisions to make it clear that any proceeding is required to provide adequate notice and opportunity for all parties to be heard in order to ensure proper due process.

⁷ For a detailed analysis of the provisions of Tenant Protection Act of 2019 (AB 1482; Ch. 597, Stats. 2019) see Sen. Jud. Comm. analysis of Assem. Bill No. 1482 (2019-202 Reg. Sess.) Jul. 9, 2019 http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1482# (as of May 16, 2020).

Lastly, since the provisions of the Act are repealed on January 1, 2030, the author may wish to also repeal these enforcement provisions on the same date.

4. Amendments

In order to address the issues raised in the Comments above, the author may wish to make the following amendments.⁸ These amendments also include some technical and clarifying changes.

Amendment 1

On page 3, at line 14, delete paragraph (6) of subdivision (a) of Section 1946.7 of the Civil Code, and instead insert the language in italics.

- ~~(6) A crime that caused physical injury, emotional injury and the threat of physical injury, or death.~~
- (6) *A crime that caused bodily injury or death.*
- (7) *A crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument.*
- (8) A crime that included the use of force against the victim or a threat of force against the victim.*

Amendment 2

On page 4, delete line 14 and insert:

bodily injury or death, a crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use of force against the victim or a threat of force against the victim.]

Amendment 3

On page 5, between lines 7 and 8 insert:

I meet the definition of “victim of violent crime advocate” provided in Section 1947.6 of the Civil Code and I am employed, whether financially compensated or not, by a reputable agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

⁸ These amendments will also include any technical, nonsubstantive amendments deemed necessary by the Office of Legislative Counsel.

Amendment 4

On page 5, at line 34, amend subparagraph (C) of paragraph (3) of subdivision (b) of Section 1946.7 of the Civil Code to read:

(C) The documentation may be signed by a person who meets the requirements for a sexual assault counselor, domestic violence counselor, or a human trafficking caseworker *caseworker, or a victim of violent crime advocate* only if the documentation displays the letterhead of the office, hospital, institution, center, or organization, as appropriate, that engages or employs, whether financially compensated or not, this counselor or caseworker *counselor, caseworker, or advocate*.

Amendment 5

On page 5, delete lines 39 to 40, and on Page 6, delete lines 1 through 4.

~~(4) A written statement from the tenant stating that the tenant, a household member, or an immediate family member was a victim of an eligible act or crime listed in subdivision (a). The statement shall include substantially the same information as the "Part I. Statement By Tenant" portion of the form provided in subparagraph (B) of paragraph (3).~~

Amendment 6

On page 6, in line 5, delete (5) and renumber to (4).

Amendment 7

On page 6, amend subdivision (c) of Section 1946.7 of the Civil Code to read:

(c) If the tenant ~~who~~ is terminating tenancy pursuant to subdivision (a) ~~is because~~ an immediate family member ~~of~~ is a victim of an eligible act or crime listed in subdivision (a) and that tenant did not live in the same household as the ~~victim of the eligible act or crime~~ immediate family member at the time of the act or crime, and no part of the act or crime occurred within the dwelling unit or within 1,000 feet of the dwelling unit of the tenant, the tenant shall attach to the notice provided for in subdivision (b) a written statement stating all of the following:

(1) The tenant's immediate family member was a victim of an act or crime listed in subdivision (a).

(2) The tenant intends to relocate as a result of the ~~act or crime, or as a result of the tenant's status as an immediate family member of the victim.~~ tenant's immediate family member being a victim of an act or crime listed in subdivision (a).

Amendment 8

On page 6, at line 30, delete "(6)" and insert:

(6), (7), or (8)

Amendment 9

On page 7, at line 27, amend paragraph (4) of subdivision (h) of Section 1946.7 of the Civil Code:

(4) "Immediate family member," as used in this section, means ~~the mother, father, stepmother, stepfather, spouse, son, son-in-law, daughter, daughter-in-law, stepchild, brother, or sister~~ parent, step-parent, spouse, child, child-in-law, step-child, or sibling of the tenant, or any person living in the tenant's household at the time the crime or act listed in subdivision (a) occurred who ~~is a family member of the tenant or who~~ has a relationship with the tenant that is substantially similar to that of a family member.

Amendment 10

On page 7, insert between lines 33 and 34:

(5) "Victim of violent crime advocate," as used in this section, means a person who is employed, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of violent crimes for a reputable agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

Amendment 11

Amend Section 1947.14 of the Civil Code as follows:

(a) ~~The Tenant Protection Act of 2019 (Sections 1946.2, 1947.12, and 1947.13; hereafter the act) may be enforced in any court of competent jurisdiction by the Attorney General, any city attorney, including the city attorney of a city and county, any district attorney, or any county counsel, who, notwithstanding any other law, may utilize existing state or local~~

~~laws to bring suit to enjoin and remedy violations of the act in any court of competent jurisdiction.~~

(a) Notwithstanding any other law, a city attorney, including the city attorney of a city and county, a district attorney, or a county counsel may bring suit to enjoin and remedy violations of the Tenant Protection Act of 2019 (Sections 1946.2, 1947.12, and 1947.13; hereafter the act).

(b) (1) The legislative body of a local government may create or designate a local agency to investigate and enforce the act. The designated local agency may, among other things, do the following:

(A) Accept administrative claims for violations of the act.

(B) Investigate complaints of violations of the act.

(C) Make determinations of violations of the act.

(D) Hold administrative hearings regarding violations of the act.

(E) Award restitution or levy fines, ~~not to exceed twenty thousand dollars (\$20,000)~~, for violations of the act. Any fine assessed shall not exceed twenty thousand dollars (\$20,000).

(2) The designated local agency may promulgate and enforce rules and administrative procedures ~~that provide adequate notice and opportunity for all parties to be heard~~, including, but not limited to, evidentiary rules created for the fair and efficient conduct of investigations and hearings, to carry out the purposes of this section.

(3) Any enforcement under this subdivision shall provide adequate notice and opportunity for all parties to be heard.

(c) A party ~~make~~ may seek judicial review of a determination made pursuant to this section in accordance with Section 1094.5 of the Code of Civil Procedure.

(d) This section shall not be construed to limit the enforcement of the act under any other existing provisions of law.

(e) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

5. Statements in support

Supporters of the bill consist of various organizations and associations representing victims of crime and violence, public health advocates, and two individuals. It should be noted that all of the support letters received were for the provisions of the bill relating to protections for victims of crime and most were received before the bill was amended on May 15, 2020, to add the authorization for local enforcement of the Act.

Californians for Safety and Justice, the sponsor of the bill, writes:

A 2019 survey of crime survivors in California found that more than 4 in 10 survivors (42%) would have wanted emergency or temporary housing following the crime, though only 6% received it.[footnote omitted] There are a number of reasons why survivors of any type of violent crime and their family members may need to relocate following a crime. Examples include:

- The person or people responsible know where the victims or the victim's family members live, and pose an ongoing threat[...]
- The victim or immediate family member is dealing with unexpected medical, funeral, childcare, or other costs following victimization and can no longer afford to pay rent.

SB 1190 would also reduce bureaucratic hurdles and ensure that survivors are not forced to take safety and health risks during the COVID-19 pandemic to obtain paperwork if they need to relocate to escape violence. The bill expands acceptable forms of documentation that a victim can provide for protected lease termination following a crime, allowing alternative documentation to reasonably verify that the eligible crime occurred.

The National Association of Social Workers, California Chapter writes in support:

[...] These protections put forth by SB 1190 are important because after a violent crime, victims and their families face significant challenges to maintaining a stable, safe home and in many circumstances need to quickly relocate. A crime may have occurred inside or near the home, for example, and staying in the victims' home may increase risk of developing Post-Traumatic Stress Disorder (PTSD) and expose victims to further violence. Not allowing survivors to break a lease without penalty can force them to endure financial and housing insecurity.

SB 1190 provides protections to survivors of violent crimes and is key to ensuring the health and security of families and entire communities. For this reason, the National Association of Social Workers, California Chapter supports this bill.

6. Statements in opposition

Opponents of the bill are organizations representing landlords and apartment owners and the California Association of Realtors (C.A.R.). Opponents raise various issues with the bill, including inclusion of immediate family member, allowing the tenant to submit a statement that the crime happened as documentation, and the inclusion of a crime that caused “emotional injury” due to the undefined nature of that term. Some opponents also raised issues with the additional enforcement provisions provided for the Act.

C.A.R. writes in opposition:

Existing law includes a longstanding bipartisan mechanism that allows a tenant who is the victim of domestic violence, sexual assault, stalking, human trafficking, elder abuse, or dependent adult abuse to break their lease if they provide written notice to the property owner and specified documentation.

In sharp contrast, SB 1190, among other things, allows a tenant to break their lease if a specified family member—who is not on the tenant’s lease and may reside anywhere in the world—is the victim of a “crime that caused physical injury, emotional injury and the threat of physical injury, or death” anywhere in the world. Meaning, the crime victim and the crime itself have no nexus to the tenant’s unit [...]

As very recently amended, SB 1190 now also dramatically expands AB 1482 (Chiu, et. al., Statutes of 2019)

The Southern California Rental Housing Association writes in opposition:

This bill poses a number of different problems for property owners. First, expanding these provisions to immediate family members is unprecedented. Current law already offers tenants the authority to terminate a lease when they themselves are victims of a number of crimes, including stalking, domestic violence, and sexual assault to name a few. This could create a number of scenarios where immediate family members of the tenant come to visit, claim that they were the victim of a crime that resulted in an injury, which would allow the tenant to break the lease without penalty.

Second, the language in the bill is overly broad and ambiguous. The bill states that victims of a crime that caused physical or emotional injury have the right to terminate a lease. The term “emotional injury” is not defined in the bill and can mean a number of different things. The broad nature of this bill and the ambiguity of the language will likely result in a significant increase in tenants terminating leases which will negatively impact property owners and other

tenants. By not defining terms like ‘emotional injury’ it is nearly impossible for a property owner to rebut the tenant’s notice to terminate under this provision.

The California Apartment Association writes in opposition:

I am writing to inform you the organization has taken an oppose position on SB 1190, your bill that authorizes various state and local entities to enforce the Tenant Protection Act of 2019 (TPA). That act was the subject of intense negotiations last year, the parties who worked on this measure in good faith agreed that the act would be enforced through existing procedures. With the ink barely dry on this measure, there is no reason to believe additional enforcement mechanisms are necessary.

SUPPORT

Californians for Safety and Justice (sponsor)

California Rural Legal Assistance Foundation

Ahimsa Collective

Alicia Boccellari, Ph.D.

Be Smooth Inc.

Fathers & Families of San Joaquin

Harbor UCLA Medical Center’s Safe Harbor: Hospital-Based Violence Intervention Program

Healing Hearts Restoring Hope

Homies Unidos Inc.

Housing and Economic Rights Advocates

Kelly’s Angels Foundation Inc.

National Association of Social Workers, California Chapter

Public Health Advocates

Santa Cruz Barrios Unidos

Sarah Metz, Psy. D.

StrengthUnited

United Communities for Peace

Western Center on Law & Poverty

Youth ALIVE

OPPOSITION

Apartment Association, California Southern Cities

Apartment Association of Orange County

California Apartment Association

California Association of Realtors

East Bay Rental Housing Association

Southern California Rental Housing Association

RELATED LEGISLATION

Pending Legislation:

AB 3088 (Chiu, 2020) would provide an additional exemption to the just-cause eviction provision of the Tenant Protection Act of 2019 for housing that has been issued a final inspection permit or similar approval for initial residential occupancy of the unit within the previous 15 years and would revise and recast other exemptions to the Act. AB 3088 has been set for a hearing in the Assembly Housing and Community Development Committee on May 20, 2020.

Prior Legislation:

AB 1482 (Chiu, Ch. 597, Stats. 2019) enacted the provisions of the Tenant Protection Act of 2019.

AB 418 (Chiu, Ch. 70, Stats 2015) extend the provision regarding documentation from a qualified third party indefinitely, and reduced the time limit for such a tenant to give notice of intent to vacate to their landlord from 30 days to 14 days.

SB 612 (Leno, Ch. 130, Stats. 2013) expanded provisions for tenants that were victims of specified crimes to terminate a tenancy to additionally include that the tenant or a household member is a victim of human trafficking and included specified statements by the tenant and by a health practitioner in the documentation that can be provided to the landlord until January 1, 2016.

SB 1403 (Yee, Ch. 516, Stats 2012) expanded provisions for tenants that were victims of specified crimes to terminate a tenancy to additionally include abuse of an elder or a dependent adult and expended documentation that can be provided to the landlord to include protective orders.

AB 588 (V. Manuel Pérez, Ch. 76, Stats. 2011) required notice to terminate a tenancy because the tenant or household member was a victim of specified crimes to be given within 180 days of the date of the protective order or report by a peace officer instead of 60 days.

AB 2052 (Lieu, Ch. 440, Stats. 2008) authorized a tenant to notify the landlord in writing that the tenant or a household member was a victim of an act of domestic violence, sexual assault, or stalking and intends to terminate the tenancy and required a copy of a temporary restraining order or emergency protective order, or a copy of a specified written report by a peace officer to be provided with the notice to the landlord.
