

AMENDED IN SENATE MAY 13, 2020

AMENDED IN SENATE APRIL 24, 2020

AMENDED IN SENATE APRIL 6, 2020

SENATE BILL

No. 1190

**Introduced by Senator Durazo
(Coauthor: Senator Wiener)**

February 20, 2020

An act to amend Section 1946.7 ~~of of~~, and to add Section 1947.14 to, the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Durazo. Tenancy: ~~termination: victims of crime: termination.~~

~~Existing~~

(1) *Existing* law authorizes a tenant to notify the landlord that the tenant or a household member, as defined, was a victim of an act of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult, as defined, and that the tenant intends to terminate the tenancy. Existing law requires the notice to terminate the tenancy be in writing and that the tenant attach to the notice one of the following: ~~(1)~~ (a) a copy of a temporary restraining order or protective order, ~~(2)~~ (b) a report by a peace officer stating that the tenant or household member has filed a report, or ~~(3)~~ (c) documentation from a qualified third party, as defined, indicating that the tenant or household member is seeking assistance for physical or mental injuries or abuse.

This bill, among other things, would expand these provisions to authorize a tenant to notify the landlord that the tenant, a household member, or an immediate family member, as defined, was the victim

of a crime that caused physical injury, emotional injury and the threat of physical injury, or death. The bill would additionally authorize a tenant to attach one of the following to the notice to terminate a tenancy: (1) a written statement, as provided, stating that the tenant, a household member, or an immediate family member was a victim of an eligible act or crime, or (2) any other form of documentation that reasonably verifies that the qualifying crime or act occurred.

This bill would also require a tenant, terminating a tenancy when the immediate family member that is the victim of a qualifying crime or act did not live in the same household as the tenant and the crime or act did not occur within 1,000 feet of the tenant's dwelling unit, to provide a written statement to the landlord, as specified. The bill would prohibit a landlord from keeping the tenant's security deposit or advance rent if the tenant exercises these rights. The bill would prohibit an owner or an owner's agent from refusing to rent a dwelling unit to an otherwise qualified tenant solely on the basis that the tenant has previously exercised the tenant's rights under these provisions.

(2) Existing law, the Tenant Protection Act of 2019, establishes certain protections for tenants of residential real property, including prohibiting an owner of residential real property from terminating a tenancy after 12 months of occupation without just cause, as defined, or increasing the gross rental rate more than a specified amount in a 12-month period.

This bill would make the act enforceable by the Attorney General, a city attorney, district attorney, or county counsel. The bill would authorize the legislative body of a local government to designate a local agency to investigate and enforce the provision of the act, including levying fines of up to \$20,000 for each violation of the act. The bill would authorize the designated local agency to promulgate and enforce rules and administrative procedures that provide adequate notice and opportunity for all parties to be heard, and would authorize a party to seek judicial review of a determination made by a designated local agency.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1946.7 of the Civil Code is amended to
2 read:

1 1946.7. (a) A tenant may notify the landlord that the tenant
2 intends to terminate the tenancy if the tenant, a household member,
3 or an immediate family member was the victim of an act that
4 constitutes any of the following:

5 (1) Domestic violence as defined in Section 6211 of the Family
6 Code.

7 (2) Sexual assault as defined in Section 261, 261.5, 262, 286,
8 287, or 289 of the Penal Code.

9 (3) Stalking as defined in Section 1708.7.

10 (4) Human trafficking as defined in Section 236.1 of the Penal
11 Code.

12 (5) Abuse of an elder or a dependent adult as defined in Section
13 15610.07 of the Welfare and Institutions Code.

14 (6) A crime that caused physical injury, emotional injury and
15 the threat of physical injury, or death.

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

18 (1) A copy of a temporary restraining order, emergency
19 protective order, or protective order lawfully issued pursuant to
20 Part 3 (commencing with Section 6240) or Part 4 (commencing
21 with Section 6300) of Division 10 of the Family Code, Section
22 136.2 of the Penal Code, Section 527.6 of the Code of Civil
23 Procedure, or Section 213.5 or 15657.03 of the Welfare and
24 Institutions Code that protects the tenant, household member, or
25 immediate family member from further domestic violence, sexual
26 assault, stalking, human trafficking, abuse of an elder or a
27 dependent adult, or any act or crime listed in subdivision (a).

28 (2) A copy of a written report by a peace officer employed by
29 a state or local law enforcement agency acting in the peace officer's
30 official capacity stating that the tenant, household member, or
31 immediate family member has filed a report alleging that the tenant,
32 the household member, or the immediate family member is a victim
33 of an act or crime listed in subdivision (a).

34 (3) (A) Documentation from a qualified third party based on
35 information received by that third party while acting in the third
36 party's professional capacity to indicate that the tenant, household
37 member, or immediate family member is seeking assistance for
38 physical or mental injuries or abuse resulting from an act or crime
39 listed in subdivision (a).

(B) The documentation shall contain, in substantially the same form, the following:

**Tenant Statement and Qualified Third Party Statement
under Civil Code Section 1946.7**

Part I. Statement By Tenant

I, [insert name of tenant], state as follows:

I, or a member of my household or immediate family, have been a victim of:
[insert one or more of the following: domestic violence, sexual assault, stalking,
human trafficking, elder abuse, dependent adult abuse, or a crime that caused
physical injury, emotional injury and the threat of physical injury, or death.]

The most recent incident(s) happened on or about:
[insert date or dates.]

The incident(s) was/were committed by the following person(s), with these
physical description(s), if known and safe to provide:
[if known and safe to provide, insert name(s) and physical description(s).]

(signature of tenant)

(date)

Part II. Qualified Third Party Statement

I, [insert name of qualified third party], state as follows:

My business address and phone number are:
[insert business address and phone number.]

Check and complete one of the following:

____ I meet the requirements for a sexual assault counselor provided in Section 1035.2 of the Evidence Code and I am either engaged in an office, hospital, institution, or center commonly known as a rape crisis center described in that section or employed by an organization providing the programs specified in Section 13835.2 of the Penal Code.

____ I meet the requirements for a domestic violence counselor provided in Section 1037.1 of the Evidence Code and I am employed, whether financially

1 compensated or not, by a domestic violence victim service organization, as
2 defined in that section.

3 ____I meet the requirements for a human trafficking caseworker provided in
4 Section 1038.2 of the Evidence Code and I am employed, whether financially
5 compensated or not, by an organization that provides programs specified in
6 Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of
7 the Penal Code.

8 ____I am licensed by the State of California as a:
9 [insert one of the following: physician and surgeon, osteopathic physician and
10 surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social
11 worker, licensed marriage and family therapist, or licensed professional clinical
12 counselor.] and I am licensed by, and my license number is:
13 [insert name of state licensing entity and license number.]

14
15 The person who signed the Statement By Tenant above stated to me that the
16 person, or a member of the person's household or immediate family, is a victim
17 of:

18 [insert one or more of the following: domestic violence, sexual assault, stalking,
19 human trafficking, elder abuse, dependent adult abuse, or a crime that caused
20 physical injury, emotional injury and the threat of physical injury, or death.]

21 The person further stated to me the incident(s) occurred on or about the date(s)
22 stated above.

23
24
25 I understand that the person who made the Statement By Tenant may use this
26 document as a basis for terminating a lease with the person's landlord.

27
28 _____
29 (signature of qualified third party) (date)

30
31
32 (C) The documentation may be signed by a person who meets
33 the requirements for a sexual assault counselor, domestic violence
34 counselor, or a human trafficking caseworker only if the
35 documentation displays the letterhead of the office, hospital,
36 institution, center, or organization, as appropriate, that engages or
37 employs, whether financially compensated or not, this counselor
38 or caseworker.

39 (4) A written statement from the tenant stating that the tenant,
40 a household member, or an immediate family member was a victim

1 of an eligible act or crime listed in subdivision (a). The statement
2 shall include substantially the same information as the “Part I.
3 Statement By Tenant” portion of the form provided in subparagraph
4 (B) of paragraph (3).

5 (5) Any other form of documentation that reasonably verifies
6 that the crime or act listed in subdivision (a) occurred.

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

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

18 (2) The tenant intends to relocate as a result of the act or crime,
19 or as a result of the tenant’s status as an immediate family member
20 of the victim.

21 (3) The tenant is relocating to increase the safety, physical
22 well-being, emotional well-being, psychological well-being, or
23 financial security of the tenant or of the tenant’s immediate family
24 member as a result of the act or crime.

25 (d) The notice to terminate the tenancy shall be given within
26 180 days of the date that any order described in paragraph (1) of
27 subdivision (b) was issued, within 180 days of the date that any
28 written report described in paragraph (2) of subdivision (b) was
29 made, within 180 days of the date that a crime described in
30 paragraph (6) of subdivision (a) occurred, or within the time period
31 described in Section 1946.

32 (e) If notice to terminate the tenancy is provided to the landlord
33 under this section, the tenant shall be responsible for payment of
34 rent for no more than 14 calendar days following the giving of the
35 notice, or for any shorter appropriate period as described in Section
36 1946 or the lease or rental agreement. The tenant shall be released
37 from any rent payment obligation under the lease or rental
38 agreement without penalty. If the premises are relet to another
39 party prior to the end of the obligation to pay rent, the rent owed
40 under this subdivision shall be prorated.

(f) Notwithstanding any law, a landlord shall not require a tenant who terminates a lease or rental agreement pursuant to this section to forfeit any security deposit money or advance rent paid due to that termination. A tenant who terminates a rental agreement pursuant to this section shall not be considered for any purpose, by reason of the termination, to have breached the lease or rental agreement. Existing law governing the security deposit shall apply.

(g) This section does not relieve a tenant, other than the tenant who is, or who has a household member or immediate family member who is, a victim of an act or crime listed in subdivision (a) and members of that tenant's household, from their obligations under the lease or rental agreement.

(h) (1) "Household member," as used in this section, means a member of the tenant's family who lives in the same household as the tenant.

(2) "Qualified third party," as used in this section, means a health practitioner, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, or a human trafficking caseworker, as defined in Section 1038.2 of the Evidence Code.

(3) "Health practitioner," as used in this section, means a physician and surgeon, osteopathic physician and surgeon, psychiatrist, psychologist, registered nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.

(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 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.

(i) (1) A landlord shall not disclose any information provided by a tenant under this section to a third party unless the disclosure satisfies any one of the following:

(A) The tenant consents in writing to the disclosure.

(B) The disclosure is required by law or order of the court.

(2) A landlord's communication to a qualified third party who provides documentation under paragraph (3) of subdivision (b) to

1 verify the contents of that documentation is not disclosure for
2 purposes of this subdivision.

3 (j) An owner or an owner's agent shall not refuse to rent a
4 dwelling unit to an otherwise qualified prospective tenant or refuse
5 to continue to rent to an existing tenant solely on the basis that the
6 tenant has previously exercised the tenant's rights under this section
7 or has previously terminated a tenancy because of the
8 circumstances described in subdivision (a).

9 *SEC. 2. Section 1947.14 is added to the Civil Code, to read:*

10 *1947.14. (a) The Tenant Protection Act of 2019 (Sections*
11 *1946.2, 1947.12, and 1947.13; hereafter the act) may be enforced*
12 *in any court of competent jurisdiction by the Attorney General,*
13 *any city attorney, including the city attorney of a city and county,*
14 *any district attorney, or any county counsel, who, notwithstanding*
15 *any other law, may utilize existing state or local laws to bring suit*
16 *to enjoin and remedy violations of the act in any court of competent*
17 *jurisdiction.*

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

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

22 *(B) Investigate complaints.*

23 *(C) Make determinations of violations of the act.*

24 *(D) Hold administrative hearings.*

25 *(E) Award restitution or levy fines, not to exceed twenty*
26 *thousand dollars (\$20,000).*

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

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