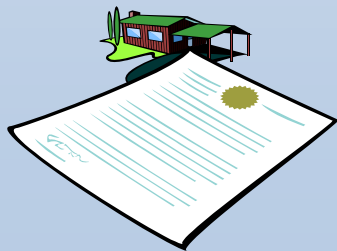


For example, a landlord may ask about an applicant's current place of residence, which may be a known sober housing residence or residential treatment facility. The landlord might reject the applicant based on his belief that alcoholics or addicts are likely to cause disturbances and damage property. This rejection is unlawful because it is based on a generalized stereotype related to disability rather than an individualized assessment of any threat to persons or the property of others.

The housing provider may not treat the applicant differently than other applicants by requiring additional documents, imposing different lease terms, requiring insurance, charging higher rent or other fees, or requiring a higher security deposit.

However, a housing provider can enforce the same conditions of tenancy for a person with a disability that are enforced for persons without a disability. For example, a lease may contain a clause making a tenant liable for damage caused by the tenant's negligence such as accidentally starting a fire that damages property.

A housing provider's determination that an individual poses a direct threat must be based on reliable objective evidence such as current condition or recent history of overt acts. If the housing provider checks references and learns that the applicant had posed a direct threat to persons or property in the recent past and the direct threat has not been eliminated, the applicant may be rejected.



In making an objective assessment of whether a tenant poses a direct threat to others, the landlord must consider:

- The nature, duration and severity of the risk of injury,
- The probability of that injury will actually occur, and
- Whether there are any reasonable accommodations that will eliminate the direct threat

If you are in this situation, you should document how your circumstances have changed so that you no longer pose a direct threat. Such evidence may include history of successful treatment, regular attendance at AA, use of medication, or a statement from a sponsor or counselor. The housing provider must keep this information confidential and must not share this information with others.

### **Reasonable Accommodation**

**If you are rejected by a housing provider, you may request reasonable accommodation based on a change of circumstances.**

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling. A requested accommodation must have an identifiable relationship to the disability.

A request for a reasonable accommodation should state that the person requesting the accommodation has a disability, that the accommodation is necessary in order to allow access to and full enjoyment of the premises, and provide verification of disability status from a health care professional. It is not necessary to reveal the details of your full medical history or medical records.

Reasonable accommodations include considering mitigating circumstances such as an explanation for a bad tenancy, credit, or criminal history, if that history was related to a disability. In evaluating a recent history of overt acts, the housing provider must take into account whether the individual has received intervening treatment, psychiatric care, or medication which has eliminated the direct threat or makes it unlikely to occur again.

An accommodation must be made unless it is an undue financial and administrative burden. Factors to be considered in evaluating an undue burden are the cost of the requested accommodation, the financial resources of the housing provider, the benefits the accommodation would provide to the tenant, and the availability of alternative accommodations that would effectively meet the tenant's needs.

A housing provider must provide a prompt response to a request for a reasonable accommodation. An undue delay in responding may be deemed a failure to provide a reasonable accommodation.



## **Disability Discrimination is Prohibited**

**The Fair Housing Act states that it is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability related to:**

- the buyer or renter,
- a person residing in or intending to reside in the dwelling after it is sold, rented, or made available, or
- any person associated with that person

**It is unlawful for a seller or landlord to ask if an applicant for a dwelling has a disability, or to inquire as to the nature or severity of a disability. The housing provider cannot ask applicants about what treatment they have had or what medications they are on.**

The housing provider can ask whether the applicant for a dwelling is a current illegal abuser or addict of a controlled substance or whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

## **Direct Threat to Others or Property**

**The Fair Housing Act does not allow for exclusion of individuals based upon fear, speculation, or stereotype about a particular disability.**

The Fair Housing Act does not protect an individual with a disability who poses a direct threat to the health or safety of other individuals or who poses a threat of substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced.

## The Fair Housing Act

The Fair Housing Act was enacted in 1968 in order to create sustainable, integrated, and balanced living patterns and communities throughout the United States. It promotes freedom of choice in housing and the elimination of barriers to equal opportunity.

The Federal Fair Housing Act protects individuals from housing discrimination based on the following protected classes:

- Race/Color
- Religion
- Sex
- Familial Status
- National Origin
- Disability

The following additional classes are protected under Montana law:

- Marital Status
- Creed
- Age

**Individuals who are in recovery from addiction fall under the protected class of disability.** A disability includes the following:

1. A physical or mental impairment which substantially limits one or more major life activities, such as walking, breathing, seeing or caring for one's self
2. A record of having such an impairment
3. Being regarded as having such an impairment

**Disability does not include current, illegal use of a controlled substance.**

## Remedies

If you have been subjected to a discriminatory housing practice, including a housing provider's wrongful denial of a request for reasonable accommodation, you may file a complaint with HUD within one year of the alleged violation or you may file a lawsuit in federal district court within two years.

To file a complaint with HUD:

- call the toll free HUD hotline: 800-877-7353
- Montana Relay Service: 711
- complete an online complaint form available on the HUD internet site at <http://www.hud.gov> or
- mail a complaint form or letter to:

Office of Fair Housing & Equal Opportunity  
U.S. Department of Housing and Urban  
Development  
1670 Broadway, 22<sup>nd</sup> Floor  
Denver, CO 80202-4801

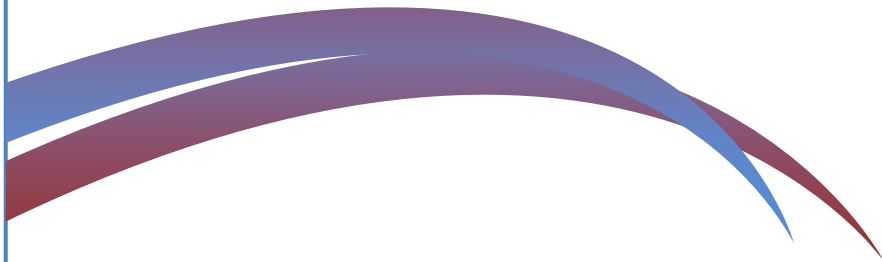
## Montana Law

The Montana Human Rights Act mirrors the federal fair housing discrimination laws, and a complaint may also be filed under state law with the following agency:

Montana Human Rights Commission  
Department of Labor and Industry  
P. O. Box 1728  
Helena, MT 59620

The Montana Human Rights Commission phone number is 1-800-542-0807. You have 180 days after the discrimination occurred to file a charge.

*Discrimination is unacceptable.  
Know your rights and report any  
violations of state and federal law!*



The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.

## Fair Housing Rights For Persons In

### Recovery From Addiction



Leading Quality Addiction Treatment in the Northern Rockies

1231 North 29<sup>th</sup> Street  
Billings, Montana 59101  
406-248-3175  
800-227-3953  
[www.rimrock.org](http://www.rimrock.org)

**Montana Relay Service: 711**