

Remarks by Andrew Duffelmeyer, legal and legislative intern for ACLU of Iowa, to Iowa Council on Homelessness, November 21, 2014.

There are many potential legal issues with “nuisance,” “crime-free” or “disorderly” ordinances. For example, they may conflict with state law; they may violate the due process clauses of the Iowa and U.S. Constitutions; and they may be so vague as to be unconstitutional. They also may violate the right to petition the government for redress of grievances; they may violate the Fair Housing Act; and they punish landlords for tenant behavior they can’t control under Iowa law.

Hundreds of municipalities across the country – including Cedar Rapids and Waterloo – have implemented “nuisance” ordinances, and many states are now working to ban them as the problems with them become clear, including Minnesota, Wisconsin, Texas, and many others.

We are proposing a bill in Iowa called the “*Right to Assistance Act*” to address the legal and policy issues with “nuisance” ordinances. The purpose of the bill is to ensure that no person in need of police or emergency assistance in the state of Iowa is penalized for contacting those authorities.

Specifically, the bill prohibits municipalities, counties and other governmental units from penalizing a resident, tenant or landlord for a contact made for police or emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency.

The bill also prohibits landlords from restricting a resident or tenant’s right to summon police or other emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency, or impose monetary or other penalties on a person who exercises that right. And it prohibits a landlord from requiring a resident or tenant to waive the rights set forth in this bill, and provides that any such waiver is void and unenforceable.

The bill does not restrict municipalities, counties and other governmental units from enforcing any law, nor restrict a landlord from terminating, evicting or refusing to renew a tenancy, so long as such action is premised upon grounds other than a contact made for police or emergency assistance by or on behalf of a victim of abuse, a victim of a crime, or an individual in an emergency.

Lakisha Briggs called the Norristown, Pa. police after being assaulted by her ex-boyfriend, who was arrested. But Briggs was warned further calls would lead to her eviction. She suffered additional violence, including being stabbed in the neck with a broken glass ashtray, and she and her daughter were threatened with eviction. A challenge to the ordinance resulted in a \$495,000 settlement, repeal of the ordinance, and a promise not to pass another.

This is a prime example of a person being put in an impossible situation: choosing between calling the police and risking eviction and homelessness; or not calling the police and risking life-threatening violence.

We will introduce this bill in the coming legislative session. Anything the Iowa Council on Homelessness can do to help see it through the process would be greatly appreciated. Thank you.