



### Providing Care to Sexual Assault Victims Who Are Minors

#### A Consent and Confidentiality Tool for Victim Service Providers

Serving victims of sexual assault who are minors often presents unique – and complex – issues regarding capacity, privacy, and informed consent. Two of the most challenging issues for SANEs, Advocates, and other first responders who serve minor victims are: (1) Determining who may legally consent to the service to be provided, and (2) Whether the services are confidential to the minor.

Other considerations that frequently arise include whether the minor may *refuse* the service the parent or guardian is requesting, whether a parent and/or police need to be informed of the sexual assault, and, if a report is required, what information the provider may – and may not – release. It is also important to know the emancipation laws and criteria in your state and how they may impact a victim’s rights. An emancipated or married minor victim, or a victim in the military, may have additional rights.

The chart below sets out a list of questions that it will be helpful for you to have answered if you are going to provide sexual assault-related services to minors or refer minors to these services. Community-based victim advocates will want to be familiar with the law as well as their Coalition standards and practices “on the ground.”

If your state or tribal sexual assault or dual coalition has a lawyer on staff, that lawyer can either provide the answers to many or all of the questions below, or help you determine where the answers may be found. Local centers and programs may help provide practical information about local practice in the community.

There are national resources to help you navigate the relevant laws and regulations too! OVW grantees can get free legal technical assistance from the Victim Rights Law Center (on the web at [www.victimrights.org](http://www.victimrights.org) or email us directly at [TA@victimrights.org](mailto:TA@victimrights.org)). The Center for Adolescent Health Law ([www.cahl.org](http://www.cahl.org)) has published a Monograph that includes all states’ laws regarding Minors and Consent to health related services. The Guttmacher Institute has a chart you can download free from the web that summarizes in brief states’ laws regarding minors’ access to prenatal, contraceptive, STI (sexually transmitted infections) and abortion services. The chart is online at:

[http://www.guttmacher.org/statecenter/spibs/spib\\_OMCL.pdf](http://www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf).



## Minors Consent and Confidentiality Tool



For each of the rows of the chart, you will want to determine: (a) whether a minor in your jurisdiction may consent to the services; and (b) whether the services may be provided in confidence. (In some states a minor may consent to the care but the provider must notify a parent or guardian.)

If services may be provided by someone who is a mandatory reporter, here are some additional questions to consider:

- Are you a mandatory reporter of child abuse?
- Even if you're not mandated to report, are others who are involved in the victim's care?
- Does the harm fall within your state, tribe, or territory's definition of "child abuse"?
- If so, when do you have to report, to whom, and what has to be reported?
- Are your communications with the minor privileged (and if so on what basis)?
- Does the minor or the parent hold the privilege?
- Who may waive the privilege?
- If your communications are privileged is there an exception to the privilege such that you're still required to report the child abuse?
- May police take a report without parental knowledge or consent?
- May police interview this minor victim without parental permission?
- May child protective services interview minor victims without parental permission?
- Is the minor a parent, in the military, or living apart from her or his parents (and if so does this impact the minor's rights (and how))?



## Providing Care to Sexual Assault Victims Who Are Minors: A Consent and Confidentiality Tool for Victim Service Providers



At what age may a minor who is a sexual assault (SA) victim consent to SA-related services, and when are services confidential?

Care to be provided	Age	Will the services be confidential?	Relevant state &/or federal statute(s) & case law)	Professional or other ethical standards	Coalition &/or employer standards
Sexual assault-related care					
Emergency medical care					
Forensic medical examination					
Release of forensic medical evidence to law enforcement					
General (non-emergency) medical care					
HIV Testing					
HIV Prophylaxis					

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STI Testing					
STI Treatment					
Family planning/ contraceptive care					
Pregnancy related care					
Emergency Contraception					
Sexual Assault Advocacy					
Mental Health counseling					
Drug and Alcohol Services					