



# Minors' Privacy Toolkit

## Alaska

Many privacy questions arise when Office on Violence Against Women (OVW)-funded victim service providers help children and teens who are survivors of sexual assault, dating and domestic violence, stalking, and sex trafficking. For example, when, if ever, may you serve minors without a parent or guardian's permission? Do you have to share records with parents or guardians if they ask for them? Can a minor sign their own release of information? How does mandatory reporting of child abuse affect minors' privacy? These FAQs provide jurisdiction-specific guidance for answering these sorts of privacy-related questions. We include legal citations so that you can read more about the laws and make sure they're current.<sup>1</sup> These FAQs are a companion piece to the Victim Rights Law Center's Minors' Privacy Toolkit, which is available in English and Spanish, with several components also available in Arabic, Hindi, Hmong, and Vietnamese. To receive an electronic copy of the Toolkit, or to ask privacy questions related to your work, email us at [TA@victimrights.org](mailto:TA@victimrights.org).

1

**Who is a “minor” in Alaska?** A minor is a person under the age of eighteen years. Alaska Stat. § 25.20.010. A person is no longer considered a minor once married; however, a person must be at least sixteen years old to marry and anyone under the age of eighteen needs the consent of their parent or guardian to marry. Alaska Stat. §§ 25.20.020; 25.05.171(a).

2

**How does emancipation work in Alaska?** Under Alaska law, emancipation grants minors certain rights of majority. Alaska Stat. § 09.55.590. A minor must be a resident of Alaska, at least sixteen years old, living separate and apart from their parents or guardians, and capable of sustained self-support and managing their own personal finances for a court to grant emancipation. Alaska Stat. § 09.55.590(a) and (f).

Note: Alaska law refers to emancipation as the “removal of disabilities of minority.”

When emancipated, a minor acts as an adult for the following purposes: The right to self-control, the right to be domiciled where one desires, the right to receive and control one's earnings, the right to sue or to be sued, and the capacity to contract. Alaska Stat. 09.55.590(g). Emancipation does not impact: Voting, the use of alcoholic beverages, and the age of majority for criminal purposes. See Alaska Stat. §§ 09.55.590(g); 47.12.020.

3

**What laws in Alaska inform a minor's right to consent to services?**

<b>Reproductive health</b>	Any age: Diagnosis, prevention or treatment of pregnancy, and diagnosis and treatment of sexually transmitted diseases. Alaska Stat. § 25.20.025(a)(4).  Note: All clinics or providers who participate in Title X grant programs are required to follow federal consent and confidentiality regulations per 42 C.F.R. § 59.11.
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<sup>1</sup> We do not guarantee that all relevant laws are included in the FAQs. The information provided is not legal advice and the Victim Rights Law Center is not establishing an attorney-client relationship with you through it. We recommend that you work with a local attorney to apply these laws to your circumstances. The American Bar Association Lawyer Referral Directory might help: [https://www.americanbar.org/groups/legal\\_services/flh-home/flh-hire-a-lawyer/](https://www.americanbar.org/groups/legal_services/flh-home/flh-hire-a-lawyer/). Or contact your jurisdiction's coalition or bar association.

<p><b>General medical</b></p>	<p>Any age, with certain other requirements:</p> <p>(1) A minor living apart from the minor’s parents or legal guardian and who is managing the minor’s own financial affairs, regardless of the source or extent of income, may give consent for medical and dental services (excluding abortions) for the minor. Alaska Stat § 25.20.025(a)(1).</p> <p>(2) A minor may give consent for medical and dental services (excluding abortions) if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent. Alaska Stat. § 25.20.025(a)(2).</p>
<p><b>Abortion</b></p>	<p>A pregnant, unmarried, unemancipated person under eighteen years of age cannot have an abortion without notice or consent from their parents or legal guardian, with the following exceptions: Alaska Stat. § 18.16.010.</p> <ul style="list-style-type: none"> <li>• Medical emergency or sexual abuse, any age: Parental or guardian consent is not required in the case of a medical emergency or if the pregnancy is the result of sexual abuse of a minor, incest, or an offense under a similar law of another jurisdiction. Alaska Stat. § 18.16.060(d). “Medical emergency” is a condition that, on the basis of a physician’s good faith clinical judgment, so complicates the condition of a pregnant person that the immediate termination of the pregnancy is necessary to avert death, or a delay in providing an abortion will create serious risk of substantial and irreversible impairment of the person’s major bodily function. Id.</li> <li>• Abuse by parent, parental consent is not required: The “minor is the victim of physical abuse, sexual abuse, or a pattern of emotional abuse committed by one or both of the minor’s parents or by a legal guardian or custodian of the minor and the abuse is documented by a declaration of a signed and notarized statement by the minor; and another person who has personal knowledge of the abuse who is the sibling of the minor who is 21 years of age or older; a law enforcement officer; a representative of the department of Health and Social Services who has investigated the abuse; a grandparent of the minor; or a stepparent of the minor.” Alaska Stat § 18.16.020(a)(4).</li> <li>• Through judicial bypass: A minor may request that a court allow an abortion without parental consent. The request must include “an allegation of either or both of the following: (A) that the complainant is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without notice to or the consent of a parent, guardian, or custodian; or (B) that one or both of the minor’s parents or the minor’s guardian or custodian was engaged in physical abuse, sexual abuse, or a pattern of emotional abuse against the minor, or that the consent of a parent, guardian, or custodian otherwise is not in the minor’s best interest.” Alaska Stat. § 18.16.030(b)(4).</li> </ul>

## 4

**As an OVW-funded victim service provider, why do I need to know the child abuse mandatory reporting obligations in Alaska?** The Violence Against Women Act (VAWA) confidentiality law allows OVW-funded grantees and subgrantees to disclose the personally identifying information of people who seek, receive, or are denied services only with a VAWA-compliant release of information, or in response to a statutory or court mandate. Therefore, without a release, a victim service provider who receives VAWA funding may only report child abuse or neglect if a statute or case law *requires* the report. Statutory or case law *permission* to file a report is not enough. Sexual violence disproportionately impacts children and youth, many of whom will not disclose their abuse to someone who is mandated to report it. Victim service providers should be careful not to over report child abuse. The information below gives an overview of the requirements for making a report of child abuse or neglect in Alaska.

## 5

**What are the child abuse mandatory reporting obligations in Alaska?**

**Who is a mandatory reporter of child abuse?** In Alaska, there is a long list of mandatory reporters. See Alaska Stat. § 47.17.020. Some relevant reporters include:

- Practitioners of healing arts. This includes, among others, athletic trainers, mental health counselors and therapists, social workers, dentists, nurses, optometrists, physical therapists, physicians, religious healing practitioners, and acupuncturists
- School teachers and administrative staff members
- Athletic coaches (under certain circumstances, *see* Alaska Stat. § 47.17.290)
- Peace officers and officers of the Department of Corrections
- Childcare providers
- Paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs
- Volunteers who interact with children in a public or private school for more than four hours a week

**How is “child” defined for purposes of Alaska’s mandatory reporting law?** For the mandatory reporting law, a child is a person under eighteen years of age. Alaska Stat. § 47.17.290(2).

**How is “abuse” defined?** Child abuse or neglect is defined to include any of the following under circumstances that indicate the child’s health or welfare is harmed or threatened (*see* Alaska Stat. § 47.17.290):

- Physical injury
- Neglect, which means “the failure by a person responsible for the child’s welfare to provide necessary food, care, clothing, shelter, or medical attention for a child.” Alaska Stat. § 47.17.290(11).
- Mental injury, which means a “serious injury” the emotional well-being, or intellectual or psychological capacity of a child, and “evidenced by an observable and substantial impairment in the child’s ability to function.” Alaska Stat. § 47.17.290(10).
- Sexual abuse
- Sexual exploitation, which includes “allowing, permitting, or encouraging a child to engage in prostitution ... by a person responsible for the child’s welfare” and “allowing, permitting, encouraging, or engaging in activity prohibited by [the law against the unlawful exploitation of a minor] by a person responsible for the child’s welfare.” Alaska Stat. § 47.17.290(17).
- Maltreatment, which means “an act or omission that results in circumstances in which there is reasonable cause to suspect that a child may be a child in need of aid ... except that ...

the act or omission need not have been committed by the child’s parent, custodian, or guardian.” Alaska Stat. § 47.17.290(9).

**When must a mandatory reporter make a report?** Any mandatory reporter who, “in the performance of their occupational duties, their appointed duties ..., or their volunteer duties ..., have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the [Department of Health and Social Services].” Alaska Stat. § 47.17.020(a). Note that “immediately” means “as soon as is reasonably possible, and no later than 24 hours.” Alaska Stat. § 47.17.290(7). “Reasonable cause to suspect” means “cause, based on all the facts and circumstances known to the person, that would lead a reasonable person to believe that something might be the case.” Alaska Stat. § 47.17.290(15).

Additionally, if a person observes a child engaged in conduct described in the Unlawful Exploitation of a Minor statute (Alaska Stat. § 11.41.455) while providing certain media-related services, then the person “shall immediately report the observation to the nearest law enforcement agency and provide ... all information known about the nature and origin of the film, photo, picture, computer file, image, or other matter.” Alaska Stat. § 47.17.023.

A “religious healing practitioner” is not required to “report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.” Alaska Stat. § 47.47.020(d).

**What must be reported if I am required to report child abuse?** The duty to report entails only the duty to make a report. No specific information in the report is required. Alaska Stat. § 47.17.020(a).

**To whom may I make a mandated report?** A mandated report must be made to the nearest office of the Department of Health and Social Services. Alaska Stat. § 47.17.020(a).

“If the person making a report of harm ... cannot reasonably contact the nearest office of the [Department of Health and Social Services] and immediate action is needed for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall immediately take action to protect the child and shall, at the earliest opportunity, notify the nearest office of the [Department of Health and Social Services].” Alaska Stat. § 47.17.020(c).

A report made to a mandatory reporter’s job supervisor or co-worker does not fulfill the obligation to make a report. Alaska Stat. § 47.17.020(g).

## 6

**Must I notify someone if a minor is suicidal or a danger to others?** Without a VAWA-compliant release of information, OVW-funded grantees and subgrantees may disclose the personally identifying information of someone who sought, received, or was denied services only when there is a statutory or court mandate to do so. “Court mandate” includes case law. Duties to protect a third party from harm or someone from self-harm can be found in both statutes and case law, and typically apply only to mental health practitioners. Since VAWA confidentiality provisions only allow for release of information in duty to protect situations if the statute or case law *requires* the release, *permission* to release the information is not enough.

There is no specific statute creating a duty to report a risk of suicide or threat of harm in Alaska. Case law in Alaska creates no clear duty to warn third parties but asserts that a duty of reasonable care applies to a substance abuse facility, at least, as in any other tort case. A duty of reasonable care “must be measured in terms of the skill and knowledge normally used by treatment providers under

similar circumstances .... And the scope of the duty ... is also necessarily confined by the ... obligation to obey applicable confidentiality laws.” *Bryson v. Banner Health Sys.*, 89 P.3d 800 (Alaska 2004).

Duties to warn or protect are complicated and can require analysis of case law. Please contact the VRLC privacy support team at [TA@VictimRights.org](mailto:TA@VictimRights.org) to discuss our survey of jurisdiction-specific case law that may affect your duties to warn or protect.

7

**May domestic violence and sexual assault advocates have privileged communications with a minor survivor?** Yes. Confidential communications between a victim of domestic violence or sexual assault and a victim counselor are privileged. Alaska Stat. §§ 09.25.400; 12.45.049.

However, there are eight exceptions to the privilege of confidential communications, including for reports of suspected child abuse or neglect and during child-in-need-of-aid proceedings. Alaska Stat. § 18.66.210.

Further, under the Domestic Violence and Sexual Assault laws, a parent or legal guardian may waive the privilege on behalf of a minor. This Act applies to the testimony of a victim who is a minor and the testimony of a victim counselor when the victim is a minor. Alaska Stat. § 18.66.200(a). Such waiver is not allowed if (A) the parent or legal guardian has been charged with a crime against the minor; (B) a protective order or restraining order has been entered against the parent or legal guardian on request of or on behalf of the minor; or (C) the parent or legal guardian otherwise has an interest adverse to that of the minor with respect to the waiver of privilege. Alaska Stat. § 18.66.200(c).

Note that under the Domestic Violence and Sexual Assault laws, a victim counselor does not include those who work at a victim counseling center that is affiliated with a law enforcement agency or a prosecutor’s office or is on contract with the state to provide services under Alaska Stat. § 47 (Child Protection). Alaska Stat. § 18.66.250(5), (6).

8

**Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Alaska?** Under Alaska’s Domestic Violence and Sexual Assault statute, the presence of persons who are necessary to facilitate communication or further the counseling process do not waive the privilege by merely being present. Alaska Stat. § 18.66.250(1). So if the parent or guardian is necessary to facilitate communication or further the counseling process, their mere presence does not waive the privilege.

9

**Does Alaska have a privilege that protects the privacy of communication between a parent and a child?** Alaska does not have an established parent-child privilege.

10

**Who must sign a release of a minor’s personal information at an OVW-funded victim service provider?** If the minor is permitted by law to receive services without a parent or guardian’s consent, the minor alone may consent to release their information. Releases generally must be signed by the victim unless the victim is a minor who doesn’t understand consent (because of age or other factors). In those cases, the parent or guardian should sign. If the victim understands consent, but lacks legal capacity to consent for services, the release must be signed by both the minor and a parent or guardian. Consent may not be given by the abuser of the minor or the abuser of the other parent of the minor. If a parent or guardian consents for a minor, the grantee or subgrantee should attempt to notify the minor as appropriate. 34 U.S.C. § 12291(b)(2)(B) and 28 C.F.R. § 90.4(3)(ii).