



Minors' Privacy Toolkit

Arizona

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.¹ 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.

1

Who is a “minor” in Arizona? Under Arizona law, a minor is a person under the age of eighteen years. Ariz. Rev. Stat. § 1-215(21).

2

How does emancipation work in Arizona? Under Arizona law, a minor may apply to be emancipated if they: (1) are at least sixteen years old, (2) are an Arizona resident, (3) are financially self-sufficient, (4) acknowledge in writing that they have read and understand the information provided by the court explaining the rights and obligations of an emancipated minor and potential risks and consequences of emancipation, and (5) are not a ward of the court or in the state's care or custody. Ariz. Rev. Stat. § 12-2451(A). The minor must demonstrate the ability to manage financial, personal, and social affairs; live wholly independent of parent; and obtain or maintain health care and education, vocational training, or employment. The minor must provide one of the following: proof of living on own for at least three consecutive months, statement explaining why the home of the parent or legal guardian is not healthy or safe, or a notarized written consent with explanation from the parent or legal guardian. Ariz. Rev. Stat. § 12-2451(B).

A minor who is married or in the military is also considered emancipated. *Id.*

Arizona will recognize an emancipated minor who is at least sixteen years old and can document emancipation from another U.S. jurisdiction. Ariz. Rev. Stat. § 12-2455.

An emancipated minor is an adult for these purposes: Entering a contract; suing and being sued; buying and selling real property; establishing legal residence; duty to pay child support; incurring debt and applying for loans; accessing medical records; consenting to medical, dental and psychiatric care for self and child(ren); and eligibility for social services. Ariz. Rev. Stat. § 12-2454.

¹ 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/. Or contact your jurisdiction's coalition or bar association.

What laws in Arizona inform a minor's right to consent to services? Minors in Arizona may consent to certain services based on their status (e.g., emancipated) or the type of care (e.g., emergency).

<p>Reproductive health</p>	<p>Sexually transmitted diseases, any age. A minor may consent to hospital or medical care related to diagnosis or treatment of a sexually transmitted disease. Ariz. Rev. Stat. § 44-132.01.</p> <p>HIV testing, any age. A minor may consent to an HIV test if the minor has the capacity to consent, which is defined as the ability, regardless of age, to understand and appreciate the nature and consequences of the test and to make an informed decision. Ariz. Rev. Stat. §§ 36-663; 36-661(2).</p> <p>Rape or sexual assault care, age twelve or older. A minor twelve years of age or older may consent to hospital, medical, and surgical examination, diagnosis, and care in connection with a sexual assault when it is not possible to contact the parents or legal guardian within the short time span in which the examination should be conducted. Ariz. Rev. Stat. § 13-1413.</p> <p>Abortion, parental consent, or judicial bypass required. Parental consent or judicial authorization is not required to perform an abortion on a pregnant unemancipated minor if: (1) pregnancy resulted from sexual conduct by family member or person living in the same household, or (2) immediate abortion is necessary to avert minor's death or a substantial and irreversible impairment of major bodily function. Ariz. Rev. Stat. § 36-2152(H).</p> <p>Family planning. Arizona does not have a specific statute addressing family planning. However, an Arizona Attorney General opinion states that a state or local agency that administers family planning services under the federal Title X program must provide consenting minors contraceptive and family planning services without requiring parental consent and that an agency or physician that provides such services to a consenting minor will not be held civilly or criminally liable to the minor's parents for battery. Ariz. Att'y Gen. Op. No. 77-37 (1977).</p> <p>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.</p>
<p>General medical</p>	<p>Emancipated, homeless, or married minors, any age. Notwithstanding any other provision of law (except statutes pertaining to abortion), emancipated minors, homeless minors, or minors who are (or have been) married may consent to hospital, medical, and surgical care, and parental consent is not necessary. Ariz. Rev. Stat. § 44-132.</p>
<p>Mental health and chemical dependency</p>	<p>Substance abuse, age twelve or older. A minor twelve years of age or older who is found to be under the influence of a dangerous drug or narcotic, including symptoms of withdrawal, may be considered an emergency case and is to be regarded as having consented for hospital or medical care needed for treatment. Ariz. Rev. Stat. § 44-133.01.</p>

Other	Emergency care, any age. Surgical procedure may be performed on a minor without prior written consent of parent or legal guardian in the case of emergency, as determined by a physician, when such surgical procedure is necessary for the treatment of serious disease, injury, or drug abuse, to save the patient’s life, or when parent or legal guardian cannot be located after reasonably diligent effort. Ariz. Rev. Stat. § 36-2271(C). <i>See also</i> Ariz. Rev. Stat. § 44-133 (In cases of emergency in which a minor needs immediate hospitalization, medical attention or surgery and the minor’s parents cannot be located after reasonable efforts, consent for emergency attention may be given by any person standing in loco parentis to the minor.)
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As an OVW-funded victim service provider, why do I need to know the child abuse mandatory reporting obligations in Arizona? 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 Arizona.

5

What are the child abuse mandatory reporting obligations in Arizona?

Who is a mandatory reporter of child abuse? In Arizona, mandatory reporters include: Health care professionals (with exception); mental health professionals (with exception); social workers; peace officers; priests or members of the clergy (with exception); parents or guardians; school personnel; domestic violence and sexual assault victim advocates; and any other person who has responsibility for the care or treatment of the minor. *See* Ariz. Rev. Stat. § 13-3620(A).

How is “child” defined for purposes of Arizona’s mandatory reporting law? Child means a person under the age of eighteen years. Ariz. Rev. Stat. §§ 1-215(6), 8-201(6), 13-3623(F)(2). However, specific Arizona criminal statutes may have different or further age requirements. For example, molestation of a child is generally defined as sexual contact with a child who is under fifteen years of age. Ariz. Rev. Stat. § 13-1410.

How is “abuse” defined? Abuse means the infliction or allowing of physical injury, impairment of bodily function or disfigurement, or the infliction of or allowing another person to cause, serious emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior which is caused by the acts or omissions of an individual who has the care, custody, and control of a child. Ariz. Rev. Stat. §§ 13-3620(P), 13-3623, 8-201(2).

Abuse includes specified acts such as: Inflicting or allowing sexual abuse (Ariz. Rev. Stat. § 13-1404); sexual conduct with a minor (Ariz. Rev. Stat. § 13-1405); sexual assault (Ariz. Rev. Stat. § 13-1406); molestation of a child (Ariz. Rev. Stat. § 13-1410); commercial sexual exploitation of a minor (Ariz. Rev. Stat. § 13-3552); sexual exploitation of a minor (Ariz. Rev. Stat. § 13-3553); incest

(Ariz. Rev. Stat. § 13-3608); or child sex trafficking/prostitution (Ariz. Rev. Stat. § 13-3212); Physical injury that results from permitting a child “to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found” or in which there is equipment “for manufacturing a dangerous drug.” Ariz. Rev. Stat. § 13-3623(C).

The terms “neglect” and “physical injury” are both further defined. *See* Ariz. Rev. Stat. § 13-3623(F)(4).

When must a mandatory reporter make a report? A report must be made immediately (Ariz. Rev. Stat. § 13-3620(A); Ariz. Rev. Stat. § 36-2281) with the following exceptions and exemptions:

- Confidential communication or confession that is reasonable and necessary within the concepts of religion to priest, member of the clergy or Christian Science practitioner. Ariz. Rev. Stat. § 13-3620(A).
- Statement from a person other than parent, stepparent, guardian, or custodian of minor to physician, psychologist, or behavioral health professional providing sex offender treatment. Ariz. Rev. Stat. § 13-3620(C).
- A report is not required for sexual contact and conduct specified in Sections 13-1404 and 13-1405 of the Arizona statutes if the conduct involves only minors ages fourteen through seventeen and there is nothing to indicate that the conduct is other than consensual. Ariz. Rev. Stat. § 13-3620(B)(1).
- A report is not required for physical injury of a minor of elementary school age that occurs accidentally in the course of typical playground activity during a school day and on school premises, is reported to the parent or guardian, and the school maintains a written record. Ariz. Rev. Stat. § 13-3620(B)(2).

What must be reported if I am required to report child abuse? Reports shall be made immediately either electronically or by telephone and contain the following information, if known:

- Names and addresses of the minor and minor’s parents or persons having custody of the minor
- Minor’s age
- Nature and extent of minor’s abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect
- Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect
See Ariz. Rev. Stat. § 13-3620(D).

To whom must I make a report when I’m required to do so? Mandated reports must immediately be made to a peace officer, department of child safety, or tribal law enforcement or social services agency for any Indian minor who resides on an Indian reservation. Ariz. Rev. Stat. § 13-3620(A).

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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.

Arizona’s mental health professionals have a duty to inform and/or protect in certain circumstances. Psychologists duty is set forth at Ariz. Rev. Stat. § 32-2061(16)(t) and at Ariz. Rev. Stat. § 32-2085(A). The duties of behavior health professionals, marriage and family therapists, professional counselors, social workers, and substance abuse counselors may be found at Ariz. Rev. Stat. § 32-3251(8). The duties of psychiatrists, other mental health providers, and behavioral health care institutions may be found at Ariz. Rev. Stat. § 36-501(14), (17), (18), and (26), and at Ariz. Rev. Stat. § 36-509(A)(6) and (7). See too, *Hamman v. County of Maricopa*, 161 Ariz. 58, 775 P.2d 1122 (1989).

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 to discuss the jurisdiction-specific 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? Arizona law establishes privileged communications for crime victim advocates, domestic violence victim advocates, and sexual assault victim advocates. The privilege does not extend to cases of perjured statements or testimony or communications containing exculpatory material. The domestic violence and sexual assault victim advocates’ duty to report pursuant to Section 13-3620 of the Arizona statutes takes precedence over the privilege. Ariz. Rev. Stat. §§ 8-409, 13-4430, 12-2239, 12-2240.

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate or similar privilege in Arizona? Under Arizona’s crime victim advocate-victim privilege law, privileged communications include “any communications made to or in the presence of others.” Ariz. Rev. Stat. §§ 8-409, 13-4430. (Not specified in domestic violence and sexual assault victim advocate privilege statutes.)

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

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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).