



Minors' Privacy Toolkit

Georgia

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 Georgia? A "minor" means any person under the age of eighteen who has not otherwise been emancipated by a Juvenile Court order. Ga. Code Ann. §§ 39-1-1, 74-104, 19-7-1.

2

How does emancipation work in Georgia? Under Georgia law, emancipation occurs when a parent surrenders parental control of a minor child by operation of law or pursuant to a court order issued by the Juvenile Court after a child (who is at least sixteen years old and a Georgia resident) has filed a petition for emancipation. Ga. Code Ann. § 15-11-720. An emancipation occurs by operation of law: (1) When a child is validly married; (2) When a child reaches the age of eighteen years; or (3) While a child is on active duty with the U.S. armed forces. Ga. Code Ann. § 15-11-720(b). To receive a court order issuing emancipation, a minor must show that their parents or guardians do not object. If their parents do object, then the minor must show that the emancipation is in their best interests; the minor is able to manage their own financial, personal, and social affairs (i.e., provide proof of employment and housing); and that the minor understands their rights and responsibilities after emancipation.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect	Relevant case law
Ga. Code Ann. §§ 15-11-727 and 15-11-725	Emancipation gives the minor the right to enter into enforceable contracts, including apartment leases; to sue or be sued in their own name; to earn and retain their own earnings; to establish a separate domicile; to act autonomously and with the rights and responsibilities of an adult, in all business relationships; to authorize their own preventive health care, medical care, dental care, and mental health care; to apply for a driver's or other state license; to register for school; to apply for medical assistance programs and other welfare assistance; if the minor is a parent, to make decisions and give authority in caring for their own minor child; and to make a will.	The right to vote or purchase alcohol.	<i>Coleman v. Dublin Coca-Cola Bottling Co.</i> , 47 Ga. App. 369, 170 S.E. 549, 549 (1933); <i>Mathis v. Sapp</i> , 232 Ga. 620, 621, 208 S.E.2d 446, 448 (1974); <i>Hicks v. Fulton County Dept. of Family & Children Services</i> , 155 Ga. App. 1, 2, 270 S.E.2d 254, 255 (1980).

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

<p>Reproductive health</p>	<p>Any age: An unemancipated minor may consent to their own medical treatment in connection with pregnancy, or the prevention thereof, or childbirth. Ga. Code Ann. § 31-9-2(a)(5). While an unemancipated minor may consent to receive an abortion, at least one of their parents must be informed of their decision twenty-four hours before their abortion is scheduled to occur, and the procedure cannot proceed without their parent's knowledge. Ga. Code Ann. § 15-11-682. A court order may waive this requirement if the court finds either "(1) [t]hat the unemancipated minor is mature enough and well enough informed to make the abortion decision in consultation with their physician, independently of the wishes of such minor's parent or guardian; or (2) That the notice to a parent or, if the minor is subject to guardianship, the legal guardian pursuant to Code Section 15-11-682 would not be in the best interests of the minor." (See <i>In re Doe</i>, 319, Ga. App. 574, 575 (2013).)</p> <p>Any age: An unemancipated minor may consent to the treatment of a sexually transmitted disease or any illness or condition arising from having contracted a sexually transmitted disease. Ga. Code Ann. § 31-17-7(a).</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>An unemancipated minor in Georgia may not authorize their own preventive health care, medical care, dental care, and mental health care without their parent's knowledge or liability. Ga. Code Ann. § 15-11-727(b)(7). In fact, Georgia does not recognize the right of a "mature minor" to refuse unwanted medical care. See <i>Novak v. Cobb Cty.-Kennestone Hosp. Auth.</i>, 849 F. Supp. 1559, 1576 (N.D. Ga. 1994), <i>aff'd</i>, 74 F.3d 1173 (11th Cir. 1996).</p>
<p>Mental health and chemical dependency</p>	<p>Although an unemancipated minor may not consent to receive psychiatric treatment, they may consent to receive their own medical treatment relating to drug abuse. Ga. Code Ann. § 37-7-8(b). Although not required of a physician, if a minor seeks treatment for chemical dependency, it is within the treating physician's discretion to inform the minor's parents that the minor has consented to receive such treatment. Ga. Code Ann. §37-7-8(b).</p>
<p>Other</p>	<p>Any age: A minor who is a parent may consent to the treatment of their own minor child. Ga. Code Ann. § 31-9-2(a)(2).</p> <p>Age seventeen: A minor who is seventeen years or older may donate blood without first obtaining parental consent. Ga. Code Ann. § 44-5-89.</p>

As an OVW-funded victim service provider, why do I need to know the child abuse mandatory reporting obligations in Georgia?

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 Georgia.

What are the child abuse mandatory reporting obligations in Georgia?

Who is a mandatory reporter of child abuse? In Georgia, there is a long list of professionals who are mandatory reporters. See Ga. Code Ann. § 19-7-5(C)(1) for a full list. These reporters include:

- Physicians, interns, or residents
- Hospital or medical personnel
- Dentists
- Psychologists
- Nurses
- Professional counselors, social workers, or marriage and family therapists
- School teachers, administrators, and guidance counselors
- Child welfare agency personnel
- Child-counseling personnel and child service organization personnel
- Law enforcement personnel
- Reproductive health care facility or pregnancy resource center personnel and volunteers

How is “child” defined for purposes of Georgia’s mandatory reporting law? “Child” is defined as any person under eighteen years of age. Ga. Code Ann. § 19-7-5(b)(3).

How is “abuse” defined? “Child abuse” is defined as:

- (A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, physical forms of discipline may be used as long as there is no physical injury to the child;
- (B) Neglect or exploitation of a child by a parent or caretaker thereof;
- (C) Endangering a child;
- (D) Sexual abuse of a child; or
- (E) Sexual exploitation of a child.

However, no child who in good faith is being treated solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be an abused child.” Ga. Code Ann. § 19-7-5(b)(4).

Ga. Code Ann. § 19-7-5(b) defines several of the relevant terms contained within the definition of “child abuse,” including “sexual abuse,” which means “a person’s employing, using, persuading, inducing, enticing, or coercing any minor who is not that person’s spouse to engage in any act which involves:

- (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- (B) Bestiality;
- (C) Masturbation;
- (D) Lewd exhibition of the genitals or pubic area of any person;
- (E) Flagellation or torture by or upon a person who is nude;
- (F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

- (G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;
- (H) Defecation or urination for the purpose of sexual stimulation; or
- (I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure." Ga. Code Ann. § 19-7-5(b)(10).

Importantly, the definition of "sexual abuse" does not include consensual sex acts involving persons of the opposite sex when the sex acts are between minors or between a minor and an adult who is not more than five years older than the minor. Ga. Code Ann. § 19-7-5(b)(10).

Additionally, "sexual exploitation" means "conduct by a child's parent or caretaker who allows, permits, encourages, or requires that child to engage in: (A) Prostitution, or (B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct." Ga. Code Ann. § 19-7-5(b)(11).

When must a mandatory reporter make a report? A mandatory reporter with "reasonable cause to believe that a child has been abused" must report such abuse "immediately, but in no case later than twenty-four hours from the time there is reasonable cause to believe that suspected child abuse has occurred," notwithstanding the fact that the reporter learned of the abuse during an otherwise privileged or confidential conversation. Ga. Code Ann. § 19-7-5(e), (g). A mandatory reporter must report all reasonable suspicions of a child's physical abuse, sexual abuse, commercial sexual exploitation, neglect, or endangerment. Ga. Code Ann. § 19-7-5(h).

What must be reported if I am required to report child abuse? Reports "shall contain the names and addresses of the child and the child's parents or caretakers, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator." Ga. Code 19-7-5(e)(2).

To whom must I make a report when I'm required to do so? Reports of child abuse or neglect may be reported by electronic submission or facsimile to the Division of Family and Children Services of the Department of Human Services as specified by the Division. "Oral reports shall be followed by a later report in writing, if requested, to a child welfare agency providing protective services, as designated by the Division of Family and Children Services of the Department of Human Services, or, in the absence of such agency, to an appropriate police authority or district attorney." Ga. Code Ann. § 19-7-5(e)(2).

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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.

Georgia law might require a licensed professional counselor, social worker, or marriage and family therapist to take whatever reasonable steps are necessary in order to protect those at risk, including without limitation, to warn any identified victims and inform the responsible authorities in the

event of a clear and imminent danger to the patient or others given their ethical rules (See Ga. Comp. R. & Regs. 135-7-.03) considered in light of *Bradley Ctr., Inc. v. Wessner*, 250 Ga. 199, 200, 296 S.E.2d 693, 695 (1982).

Duties to warn or protect are complicated and require analysis of case law. Please consult with an attorney who understand these issues under Georgia's law. And you might contact the VRLC privacy support team at 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? Ga. Code Ann. §24-5-509 recognizes a privilege for statements made by victims of “family violence” or “sexual abuse” to agents of family violence or sexual abuse shelters.

A “family violence victim” is defined as “a person who consults a family violence shelter for the purpose of securing advice or other services concerning an act of family violence, an alleged act of family violence, or an attempted act of family violence.” Ga. Code Ann. § 24-5-509(a)(4).

A “sexual assault victim” is defined as “a person who consults a rape crisis center for the purpose of securing advice or other services concerning a sexual assault, an alleged sexual assault, or an attempted sexual assault.” Ga. Code Ann. § 24-5-509(a)(11).

Under Ga. Code Ann. § § 24-5-509(g), however, the privilege may be waived by the victim's guardian if the victim is, or has been judicially determined to be, incompetent.

8

Does a parent or guardian's presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Georgia? Georgia law is unclear on the extent to which privileges attach to minors if parents or guardians are present during an otherwise privileged communication

9

Does Georgia have a privilege that protects the privacy of communication between a parent and a child? Georgia does not recognize a 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).

Endnotes

- 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.