



Minors' Privacy Toolkit

Louisiana

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 Louisiana? Under Louisiana law, a minor is a person under the age of eighteen years. La. Code Civ. Proc. Art. 29.

2

How does emancipation work in Louisiana? In Louisiana, emancipation grants minors over the age of sixteen certain rights of majority La. Code Civ. Proc. Art. 366. The parents or the minor may file a petition for emancipation asking the court to grant the request. The minor does not need consent from a parent to file a petition. La. Code Civ. Proc. Art. 3991. The petition must include, among other things, the reasons why good cause exists for emancipation and, if limited judicial emancipation is requested, which rights of adulthood are sought to be given to the minor. La. Code Civ. Proc. Art. 3992.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect
La. Code Civ. Proc. Art. 3991; La. Code Civ. Proc. Art. 366	Contractual obligations, making donations, suing, and being sued.	Voting, drinking, other acts with age limits specified by law.

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.

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

Reproductive health	<p>Parental consent required for unemancipated or unmarried minor to receive an abortion. Minors can get a judicial bypass that includes analysis of the minor's maturity and best interests. La. Rev. Stat. § 40:1061.14.</p> <p>Medical emergency compelling an abortion does not mention minors per se. La. Rev. Stat. § 40:1061.23.</p> <p>Any age: May consent for pregnancy and childbirth and treatment of venereal diseases. La. Rev. Stat. § 40:1121.8.</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>
General medical	<p>Any age: Minors may consent to medical or surgical care at a hospital or clinic. La. Rev. Stat. § 40:1079.1.</p>
Mental health and chemical dependency	<p>Any age: Minor may consent to treatment of narcotic addiction or other drug. La. Rev. Stat. § 40:1079.2.</p>
Other	<p>Minors age sixteen or older may donate blood with written consent from parent or guardian. La. Rev. Stat. § 40:1079.3.</p> <p>Minors seventeen or older may donate blood without consent from parent or guardian. La. Rev. Stat. § 40:1079.3.</p>

4

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

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What are the child abuse mandatory reporting obligations in Louisiana?

Who is a mandatory reporter of child abuse? In Louisiana, there is a long list of mandatory reporters. See Louisiana State Legislature Children's Code ("Ch. C. Art.") 603 and La. Rev. Stat. § 14:403 for a full list. These reporters include:

- Social workers
- Mental health professionals (with exceptions)
- Health care providers
- School employees

How is “child” defined for purposes of Louisiana’s mandatory reporting law? “Child” means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384. Ch. C. Art. 603.

How is “abuse” defined? Under Ch. C. 603, “abuse” means:

- The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child
- The exploitation or overwork of a child, including but not limited to commercial sexual exploitation
- The involvement of the child in any sexual act with a person, or the aiding or toleration of the child’s involvement in any sexual act with any other person; pornographic displays; and any criminal sexual activity
- A coerced abortion conducted upon a child

When must a mandatory reporter make a report? Reports of child abuse or neglect shall be made immediately to the department through the designated state child protection reporting hotline telephone number. Ch. C. Art. 610.

What must be reported if I am required to report child abuse? Ch. C. Art. 610 requires the report of the following, if known:

- Name, address, age, sex, and race of child
- Nature, extent, and cause of child’s injuries or endangered condition, including any previous known or suspected abuse to child or child’s siblings
- Name and address of child’s parent(s) or other caretaker
- Names and ages of all other members of child’s household
- Name and address of reporter
- An account of how this child came to reporter’s attention
- Explanation of cause of child’s injury or condition offered by any person
- Number of times reporter has filed a report on child or child’s siblings
- Any other information reporter believes might be important or relevant
- Name of person or persons who are thought to have caused or contributed to the child’s condition and report shall contain name of such person if named by child

To whom must I make a report when I’m required to do so? An oral report must be made by telephone to a local child protection agency or Louisiana state law enforcement agency. Ch. C. Art. 610.

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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.

In Louisiana, certain mental health professionals must disclose privileged communications if a “patient has communicated a threat of physical violence, which is deemed to be significant in the clinical judgment of the treating psychologist or psychiatrist, or marriage and family therapist, or licensed professional counselor, or social worker, against a clearly identified victim or victims, coupled with the apparent intent and ability to carry out such threat.” LA Rev. Stat. § 9:2800.2.

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 our survey of jurisdiction-specific case law that may affect your duties to warn or protect.

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May domestic violence and sexual assault advocates have privileged communications with a minor survivor? Communications “made to a representative or employee of a community [family or domestic violence] shelter by a victim” and communications made “by a representative or employee of a community shelter to a victim in the course of rendering services” are privileged. La. Rev. Stat. § 46:2124.1.

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Louisiana? The domestic violence shelter-victim privilege is silent on this point.

9

Does Louisiana have a privilege that protects the privacy of communication between a parent and a child? No.

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).