



# Minors' Privacy Toolkit

## Mississippi

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).

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**Who is a “minor” in Mississippi?** Mississippi defines a “minor” as any individual under the age of twenty-one years. See Miss. Code Ann. § 1-3-27.

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**How does emancipation work in Mississippi?** Minors may apply for emancipation through a next friend, joining as defendants their parent(s) or adult kin. Miss. Code Ann. § 93-19-3, 5. Emancipation may be general or a for a particular act. Miss. Code Ann. § 93-19-9.

In addition to the process described above, the court may declare that a minor is emancipated in the context of child support, if the minor meets certain requirements. See Miss. Code Ann. § 93-11-65.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect
Miss. Code Ann. §§ 93-19-1 et seq., 36-7-43, 75-76-155.	Real estate ownership; consent to medical treatment; employment; veterans home purchasing benefits.	Voting rights, ability to drink alcohol or gamble, be employed as a gaming employee, child labor laws and work permit rules, education laws.

<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.

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

<p><b>General medical care</b></p>	<p>An unemancipated minor does not have the capacity to consent to general medical care, including any treatment or procedures suggested or directed by a licensed physician. The consent of the minor's guardian/custodian; parent; adult sibling; or grandparent is required. If none of these people are reasonably available, an adult who has exhibited special care and concern for the minor and who is reasonably available may consent. Miss. Code Ann. § 41-41-13.</p> <p><b>Note:</b> 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><b>Sexual health treatment and contraceptives</b></p>	<p>A minor has the same capacity as an adult to consent to treatment for or advice about venereal disease. Miss. Code Ann. § 41-41-13.</p> <p>A health care provider is under no obligation to obtain the consent of a parent or guardian of the minor or to inform their parent or guardian of treatment of a venereal disease. Miss. Code Ann. § 41-41-13.</p> <p>Minors who are pregnant may provide consent for their pregnancy or child-birth regardless of age or marital status. <i>See</i> Miss. Code Ann. § 41-41-3(3).</p> <p>Contraceptive supplies and information may be provided by physicians to any minor who is a parent, married, or who has the consent of their parent or legal guardian, or who has been referred for such service by another physician, a clergyperson, a family planning clinic, a school or institution of higher learning, or any agency or instrumentality of the Mississippi. Miss. Code Ann. § 41-42-7.</p>
<p><b>Abortion</b></p>	<p>A physician may not perform an abortion on an unemancipated minor without the written consent of both parents or the legal guardian of the minor; consent of both parents is not required if parents are divorced or otherwise unmarried and living separate and apart, or if minor's pregnancy was caused by incest. Miss. Code Ann. § 41-41-53.</p> <p>A minor's consent requirement will be waived by the chancery court if there is clear and convincing evidence that the minor is mature and well-informed enough to make the abortion decision on their own; or the abortion is in the best interests of the minor. Miss. Code Ann. § 41-41-55.</p>
<p><b>Emergency medical services</b></p>	<p>Emergency medical treatment or procedures may be provided to minors if there has been no refusal of consent by a person authorized to consent. Miss. Code Ann. § 41-41-7.</p>
<p><b>Drug and alcohol abuse treatment</b></p>	<p>A minor has the same capacity as an adult to consent to treatment for or advice about drug abuse and alcoholism. Miss. Code Ann. § 41-41-14.</p> <p>A health care provider may give a parent, guardian, or custodian of the minor or the spouse of the minor information about the minor's treatment. Miss. Code Ann. § 41-41-14.</p>

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

## What are the child abuse mandatory reporting obligations in Mississippi?

**Who is a mandatory reporter of child abuse?** In Mississippi, listed mandatory reporters include:

- Law enforcement officers
- attorneys
- mental health personnel like psychologists and social workers,
- public or private school employees, child care workers, or caregivers
- ministers

However, the law also requires reporting by “any other person having reasonable cause to suspect that a child is a neglected child, an abused child, or a victim of commercial sexual exploitation or human trafficking.” See Miss. Code Ann. § 43-21-353(1).

**How is “child” defined for purposes of Mississippi’s mandatory reporting law?** A child means a person who has not reached their eighteenth birthday unless that child is “on active duty for a branch of the armed services or is married.” Miss. Code Ann. § 43-21-105(d).

**How is “abuse” defined?** “Abused child” “means a child whose parent, guardian, custodian, or other person responsible for the child’s care or support ... has caused or allowed to be caused” sexual abuse, sexual exploitation, emotional abuse, mental injury, non-accidental physical injury, or other maltreatment. “However, physical discipline, including spanking, performed on a child by a parent, guardian or custodian in a reasonable manner shall not be deemed abuse under this section. ‘Abused child’ also means a child who is or has been trafficked” by any person. Miss. Code Ann. § 43-21-105(m).

**“Neglected child” is defined at Miss.** Code Ann. § 43-21-105(l); and “sexual abuse” is defined at Miss. Code Ann. § 43-21-105(n).

**When must a mandatory reporter make a report?** Any mandatory reporter who has a reasonable cause to suspect that a child has been subjected to abuse or neglect must report “immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing.” Miss. Code Ann. § 43-21-353(1).

**What must be reported if I am required to report child abuse?** An oral report and a written report must be made. Both reports must include the following, if possible:

- Name, address, and age of child
- name and home address of child’s parent or other person responsible for child’s care
- nature and extent of child’s injuries, including evidence of previous injuries, and
- any other information that would help determine cause of injury and identity of perpetrator.

Miss. Code Ann. § 43-21-353(2).

**To whom must I make a report when I'm required to do so?** Reports shall be made to the Mississippi Department of Human Services. Miss. Code Ann. § 43-21-353(1).

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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.

Mississippi statute allows mental health professionals, which include psychiatrists, psychologists, licensed professional counselors, and licensed master social workers, to disclose information that would otherwise be confidential in specified situations. The statute allow disclosure, but it does not require it or place an affirmative duty on the mental health professional to warn potential victims or law enforcement agencies. The statute provides that if the patient "has communicated ... an actual threat of physical violence against a clearly identified or reasonably identifiable potential victim or victims," then the mental health professional "may communicate the threat only to the potential victim or victims, a law enforcement agency, or the parent or guardian of a minor who is identified as a potential victim." Miss. Code Ann. § 41-21-97.

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.

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**May domestic violence and sexual assault advocates have privileged communications with a minor survivor?** Mississippi has no statutory privilege for communications between a domestic violence or sexual assault advocate and a victim.

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**Does a parent or guardian's presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Mississippi?** Mississippi law does not address the question.

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

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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).