



Minors' Privacy Toolkit

Missouri

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 Missouri? In Missouri, a “minor” is any person under eighteen years old. Mo. Ann. Stat. § 211.442.

2

How does emancipation work in Missouri? There are no statutory provisions in Missouri detailing an emancipation procedure. The Missouri Probate Code allows that wills may be made by “any person of sound mind, eighteen years of age or older or any minor emancipated by adjudication, marriage, or entry into active military service.” Mo. Ann. Stat. § 474.310. Adjudicatory emancipation is also established in case law. Missouri courts define emancipation as the “freeing of a child for all the period of its minority from the care, custody, control, and service of its parents; the relinquishment of parental control, conferring on the child the right to its own earnings and terminating the parent’s legal obligation to support it.” *Randolph v. Randolph*, 8 S.W.3d 160, 164 (Mo. App. W.D. 1999). “Emancipation can be accomplished in one of three ways: (1) by express parental consent; (2) by implied parental consent; or (3) by a change in the child’s status in the eyes of society.” *Scruggs v. Scruggs*, 161 S.W.3d at 390 (citing *Randolph*, 8 S.W.3d at 164). The third method of emancipation can be established if the child enters the military, marries, or voluntarily chooses to leave the parental home and is able to care for themself. *Scruggs*, 161 S.W.3d at 390.

Emancipation can occur only when a child is old enough to take care of and provide for themself. *Sutton v. Schwartz*, 860 S.W.2d 833, 835 (Mo. Ct. App. 1993).

Minor as adult for these purposes	Relevant case law
“When any person under eighteen years of age is married to an adult who has or claims any interest in real estate and wishes to convey, encumber, lease or otherwise dispose or affect the same, the minor shall be deemed of age for the purpose of joining with his adult spouse in the execution of any instrument affecting the spouse’s real estate.” Mo. Ann. Stat. § 442.040.	Emancipation resulted from child’s enrollment in military academy. <i>Porath v. McVey</i> , 884 S.W.2d 692 (Mo. Ct. App. 1994) Eighteen-year-old child was emancipated by their marriage. <i>Specking v. Specking</i> , 528 S.W.2d 448 (Mo. App. 1975).

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

<p>Reproductive health</p>	<p>Minors can consent to care for pregnancy. Mo. Ann. Stat. § 431.061.</p> <p>Written informed consent of the minor and one parent or guardian is required to perform an abortion on a pregnant minor unless “the minor is emancipated and the attending physician has received the informed written consent of the minor; the minor has been granted the right to self-consent to the abortion by court order and the attending physician has received the informed written consent of the minor; or the minor has been granted consent to the abortion by court order, and the court has given its informed written consent, and the minor is having the abortion willingly.” Mo. Ann. Stat. § 188.028.</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>Any person seventeen years of age or older “may donate blood voluntarily without obtaining the permission or authorization of their parent or guardian.” Mo. Ann. Stat. § 431.068. Any person sixteen years of age may donate blood if they obtain “written permission or authorization from their parent or guardian.” <i>Id.</i></p> <p>“Any one of the following persons if otherwise competent to contract, is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law: ... any minor who has been lawfully married and any minor parent or legal custodian of a child for himself, his child and any child in his legal custody;” any minor on their own behalf in case of pregnancy, but excluding abortions; sexually transmitted disease; drug or substance abuse including those referred to in chapter 195. Mo. Ann. Stat. § 431.061.</p> <p>“A physician or surgeon may, with or without the consent of the minor patient, advise the parent(s), conservator, or relative caregiver of the examination, treatment, hospitalization, medical and surgical care given to a minor patient, except that, if the minor is found not to be pregnant or not afflicted with a venereal disease or not suffering from drug or substance abuse, then no information with respect to any appointment, examination, test or other medical procedure shall be given to the parent, parents, conservator, relative caregiver, or any other person.” Mo. Ann. Stat. § 431.062.</p> <p>“Any minor who has been lawfully married and any minor parent or legal custodian of a child, if otherwise competent to contract, shall be considered an adult for the purpose of entering into a contract for surgical, medical, or other treatment or procedures for themselves, their spouse, their child and any child in their legal custody.” Mo. Ann. Stat. § 431.065.</p>
<p>Mental health and chemical dependency</p>	<p>Minors can consent to care for drug or substance abuse. See Mo. Ann. Stat. § 431.061.</p>

4

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

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What are the child abuse mandatory reporting obligations in Missouri?

Who is a mandatory reporter of child abuse? Mandated reporters in Missouri include: Medical professionals; daycare or other child-care workers; law enforcement officials, including jail and detention personnel; teachers, principals, other school officials, or persons with the responsibility for the care of children. See Mo. Ann. Stat. § 210.115 for the complete list.

How is “child” defined for purposes of Missouri’s mandatory reporting law? “Child” means “any person, regardless of physical or mental condition, under eighteen years of age.” Mo. Ann. Stat. § 210.110.

How is “abuse” defined? “Abuse means any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child’s care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse. Victims of abuse shall also include any victims of sex trafficking or severe forms of trafficking.” Mo. Ann. Stat. § 210.110.

“Neglect is defined as the failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child’s well-being. Victims of neglect shall also include any victims of sex trafficking or severe forms of trafficking.” Mo. Ann. Stat. § 210.110.

“Those responsible for the care, custody, and control of the child” includes, but is not limited to: the parents or legal guardians of a child; other members of the child’s household; those supervising a child for any part of a twenty-four-hour day; any person who has access to the child based on relationship to the child’s parents or members of the child’s household or family; or any person who takes control of the child by deception, force, or coercion. Mo. Ann. Stat. § 210.110.

When must a mandatory reporter make a report? When any mandated reporter has “reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report.” Reasonable cause to suspect means “a standard of reasonable suspicion, rather than conclusive proof.” Mo. Ann. Stat. § 210.110.

What must be reported if I am required to report child abuse? “Oral reports shall include the names and addresses of the child and their parents or other persons responsible for the child’s care; child’s age, sex, and race; the nature and extent of injuries, including any evidence of previous

injuries to the child or their siblings; the name, age, address of the person responsible for the injuries; contact information for the person making the report; if known: family composition and the actions taken by the reporting source, including any evidence collection, and other information that the person making the report believes may be helpful. Evidence of sexual abuse or sexual molestation of any child under eighteen years of age shall be turned over to the division within twenty-four hours by those mandated to report.” See Mo. Ann. Stat. § 210.130.

To whom must I make a report when I’m required to do so? Reports shall be made to the Missouri Children’s Division within the Department of Social Services.

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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.

Psychologists and other health care professionals have a duty under Missouri common law to communicate when they know or should have known that a patient presents a serious danger of future violence to a readily identifiable victim. *Bradley v. Ray*, 904 S.W.2d 302 (Mo. App. W.D. 1995).

“Mental health coordinators” are required to act in cases when a person shows signs of imminent harm to themselves or others. Mo. Ann. Stat. § 632.300(11). A “mental health coordinator” is a mental health professional with knowledge of hospital admissions and civil commitment laws authorized by the director of the department to serve a designated geographic area. Mo. Ann. Stat. § 632.300.

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.

7

May domestic violence and sexual assault advocates have privileged communications with a minor survivor? Yes. Under Missouri law, rape crisis center volunteers and employees are “incompetent to testify” about any confidential communication unless confidentiality is waived in writing by the individual served by the center. Mo. Ann. Stat. § 455.003.

This privilege “shall not apply” to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect. Mo. Ann. Stat. § 210.140.

8

Does a parents or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Missouri? The privilege statute for employees and volunteers of rape crisis centers (Mo. Ann. Stat. § 455.003) does not address this question.

9

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

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.