



Minors' Privacy Toolkit

Nevada

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 Nevada? In Nevada, "child" is defined as a person under age eighteen. Nev. Rev. Stat. § 128.0124.

2

How does emancipation work in Nevada? A minor who is at least sixteen years of age, who is married or living apart from their parents or legal guardian, and who is a resident of the county, may petition the juvenile court of that county for a decree of emancipation. Nev. Rev. Stat. § 129.080. The procedure identified in Nev. Rev. Stat. §§ 129.080 to 129.130 is inclusive of any other method of emancipation provided by statute or common law.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect	Relevant case law
Nev. Rev. Stat. § 129.130	Contractual obligations; litigation and settlements; acquiring and conveying real property; consenting to medical, dental, or psychiatric care on own behalf; enrolling in school; establishing own residence.	Restrictions on the sale, purchase or consumption of liquor; gaming or employment in gaming; marriage under age eighteen; delinquent acts or violations unless the minor certified for trial as an adult; penalties imposed according to age.	"Nev. Rev. Stat. § 129.130 provides that emancipation may be declared for 'one or more purposes,' including the minor's right to support by his or her parents." District court based decision to order post-emancipation support on evidence regarding daughter's and mother's relationship, life choices, and financial circumstances. <i>Diamond v. Diamond</i> (N.M. 2012) 283 P.3d 260, 272.

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.

3

What laws in Nevada inform a minor’s right to consent to services?

Reproductive health	A minor may not consent to their sterilization. Nev. Rev. Stat. § 129.030. 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.
General medical	The consent of the parent or parents or the legal guardian of a minor is “not necessary” for any minor who understands the nature and purpose of the proposed examination or treatment and its probable outcome, and voluntarily requests it. The consent of the minor to examination or treatment pursuant to this subsection is not subject to disaffirmance because of minority. Nev. Rev. Stat. § 129.030.
Mental health and chemical dependency	<p>“Except as otherwise provided in Nev. Rev. Stat. §§ 449A.551 and 450B.525, any minor who is under the influence of, or suspected of being under the influence of, a controlled substance:</p> <ol style="list-style-type: none"> a. May give express consent; or b. If unable to give express consent, shall be deemed to consent, <p>to the furnishing of hospital, medical, surgical or other care for the treatment of abuse of drugs or related illnesses by any public or private hospital, medical facility, facility for the dependent, other than a halfway house for alcohol and drug abusers, or any licensed physician, and the consent of the minor is not subject to disaffirmance because of minority....</p> <p>The consent of the parent, parents or legal guardian of the minor is not necessary to authorize such care, but any physician who treats a minor pursuant to this section shall make every reasonable effort to report the fact of treatment to the parent, parents or legal guardian within a reasonable time after treatment.”</p> <p>Nev. Rev. Stat. § 129.050.</p>

4

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

5

What are the child abuse mandatory reporting obligations in Nevada?

Who is a mandatory reporter of child abuse? In Nevada, the list of professionals who are mandatory reporters include:

- Persons providing state-licensed services
- Medical facility personnel
- Clergy member (unless knowledge acquired during confession)
- Any person employed by or volunteering at a school
- Social workers

- Attorneys (with exceptions; e.g., An attorney is prohibited from reporting child abuse/neglect if the attorney acquired knowledge of the abuse/neglect from a client during a privileged communication if the client (a) has been or may be accused of committing the abuse or neglect; or (b) is the victim of the abuse or neglect, is in foster care and did not give consent to the attorney to report the abuse or neglect.) Nev. Rev. Stat. § 432B.225
- Any person who maintains, is employed by or volunteers for an agency or service that provides advice regarding child abuse
- Any person who is employed by or serves as a volunteer for a youth shelter
- Any adult person who is employed by an entity that provides organized activities for children, including school district employees

Nev. Rev. Stat. § 432B.220(4).

How is “child” defined for purposes of Nevada’s mandatory reporting law? “Child” “means a person under the age of eighteen or, if in school, until graduation from high school. The term does not include a child who remains under the jurisdiction of the court pursuant to Nev. Rev. Stat. § 432B.594.” Nev. Rev. Stat. § 432B.040.

How is “abuse” defined? “Abuse or neglect of a child” is defined as: (a) Nonaccidental physical or mental injury; (b) Sexual abuse or sexual exploitation; or (c) Negligent treatment or maltreatment “of a child caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm.” Nev. Rev. Stat. § 432B.020(1).

When must a mandatory reporter make a report? A mandatory reporter who has reasonable cause to believe that a child has been abused or neglected shall report the abuse or neglect to an agency which provides child welfare services or to a law enforcement agency “as soon as reasonably practicable but not later than twenty-four hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.” Nev. Rev. Stat. § 432B.220.

What must be reported if I am required to report child abuse? Nev. Rev. Stat. § 432B.230 requires reporters to include, if known:

- Name, address, age and sex of child
- Name and address of child’s parents or other person responsible for care of child
- Nature and extent of abuse or neglect of child, the effect of a fetal alcohol spectrum disorder or prenatal substance abuse on newborn infant or the nature of withdrawal symptoms resulting from prenatal drug exposure
- Any evidence of previously known or suspected:
 - Abuse or neglect of the child or the child’s siblings; or
 - Effects of a fetal alcohol spectrum disorder or prenatal substance abuse on or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant
- Name, address, and relationship of person alleged to have abused or neglected child
- Any other information known to person making report that agency which provides child welfare services considers necessary.

To whom must I make a report when I’m required to do so? Reports must be made to a “child welfare services” or a law enforcement agency.

6

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.

Mental Health Professionals (including psychiatrists, psychologists, clinical social workers, and others) have a statutory duty to “warn or apply for emergency admission.” Nev. Rev. Stat. § 629.550. When mental health professionals’ patients have made an “explicit threat of imminent serious physical harm or death” against an “identified or identifiable person,” they are required to either warn (law enforcement, the person, or the person’s parents if they are a minor) or apply for emergency admission to a mental health facility when “in the judgment of the mental health professional, the patient has the intent and ability to carry out the threat.” *Id.*

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, subject to the below exception. Nev. Rev. Stat. § 49.2546 provides for privileged communications between a victim and a victim’s advocate that “is not intended to be disclosed to third persons other than: (a) a person who is present to further the interest of the victim; (b) a person reasonably necessary for the transmission of the communication; or (c) a person who is participating in the advice, counseling or assistance of the victim, including, without limitation, a member of the victim’s family.”

Exceptions listed in Nev. Rev. Stat. § 49.2549(2) provide that there is no privilege when the communication concerns “a report of abuse or neglect of a child, older person or vulnerable person in violation of Nev. Rev. Stat. §§ 200.508, 200.5093, or 200.50935, but only as to that portion of the communication.”

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Nevada? Probably not (see above).

9

Does Nevada 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).