



Minors' Privacy Toolkit

Northern Mariana Islands

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 the Northern Mariana Islands? In the Northern Mariana Islands, a minor is a person who has not attained the age of eighteen years. 8 CMC § 1106.

2

How does emancipation work in the Northern Mariana Islands? The Northern Mariana Islands does not have a general statute setting forth terms for emancipation. It does have a statute setting forth the procedure for terminating the rights of a parent in the context of adoption proceedings that may permit such terminations outside of the adoption context. Pursuant to this procedure, the relationship of parent and child may be terminated by a court order issued on any ground provided by other law for termination of the relationship. See 8 CMC § 1418.

Note that the minor is not accorded standing to initiate such a petition independently, but the petition may be initiated by “any other person having a legitimate interest in the matter.” *Id.*

3

What laws in the Northern Mariana Islands inform a minor's right to consent to services?

Reproductive health	Consent to medical care by a minor who is or professes to be pregnant, or who is or professes to be infected or concerned about being infected with a sexually transmitted disease or HIV/AIDS is valid and binding and that minor may consent and has the same legal obligations with regard to that consent as a person of full legal age and capacity. This does not apply to consent to surgery or any other kind of medical procedure. 3 CMC § 2164. Note: All clinics or providers who participate in Title X grant programs are required to follow federal consent confidentiality regulations per 42 C.F.R. § 59.11.
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As an OVW-funded victim service provider, why do I need to know the child abuse mandatory reporting obligations in the Northern Mariana Islands? The Violence Against Women Act (VAWA) confidentiality law allows OVW-funded grantees and subgrantees to disclose

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.

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, a victim service provider who receives VAWA funding may only report child abuse or neglect if a statute or case law *requires* the report. *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 the Northern Mariana Islands.

What are the child abuse mandatory reporting obligations in the Northern Mariana Islands?

Who is a mandatory reporter of child abuse? “Any health care worker, school teacher or other school official, day care provider, counselor, social worker, peace officer or other law enforcement official who comes into contact in a professional capacity with a child who the person knows or has reasonable cause to suspect is, or will become, a victim of child abuse shall report this knowledge or suspicion directly to the Department of Public Safety.” 6 CMC § 5313.

How is “child” defined for purposes of the Northern Mariana Island’s mandatory reporting law? The Northern Mariana Islands’ child abuse mandatory reporting statutes reference “a child under the age of 18.” 6 CMC § 5312.

How is “abuse” defined? “A person commits the offense of child abuse if the person:

- (1) Willfully and intentionally strikes, beats or by any other act or omission inflicts physical pain, injury or mental distress upon a child under the age of 18 who is in the person’s custody or over which the person occupies a position of authority, such pain or injury being clearly beyond the scope of reasonable corporal punishment, with the result that the child’s physical or mental health and well-being are harmed or threatened;
- (2) Through willful or negligent act or omission fails to provide a child under the age of 18, who is in the person’s custody or over which the person occupies a position of authority, with adequate supervision, medical care, food, clothing or shelter with the result that the child’s physical or mental health and well-being are harmed or threatened; or
- (3) Commits any act that would constitute a criminal offense under 6 CMC §§ 1306-1311 [sexual abuse and incest] against a child under the age of 18 who is in the person’s custody or over which the person occupies a position of authority.

Child abuse does not include the exercise of reasonable and traditional parental discipline, which may be determined in reference to prevailing community and cultural standards.” 6 CMC § 5312.

When must a mandatory reporter make a report? A report must be made promptly, and within 24 hours from the time that the person making the report first knew or had reasonable cause to suspect that the child in question is, or will become, a victim of child abuse. 6 CMC § 5313.

What must be reported if I am required to report child abuse? A report should contain a statement of the time, date, circumstances and details of information which gave rise to the knowledge or suspicion that the child in question is, or will become, a victim of child abuse. 6 CMC § 5313.

To whom must I make a report when I’m required to do so? A report should be made to the Department of Public Safety. In any instance where a report required involved an act or omission of the Department of Public Safety or its personnel or agents, notification of the report may,

alternatively, be made to the Office of the Attorney General. Any person or official required to report cases of known or suspected child abuse who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report that fact to the medical examiner. 6 CMC § 5313.

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.

The Northern Mariana Islands do not provide any statutory or case law authority regarding a duty to warn or protect on the part of mental health professionals.

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? Possibly. The Northern Mariana Islands recognize common law privileges between a professional and their patient or client. Except for the attorney-client privilege, common law and statutory privileges do not apply to communications relating to the reporting of child abuse offenses. 6 CMC § 5317.

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in the Northern Mariana Islands?

The Northern Mariana Islands do not have a statutory victim-advocate privilege. However, the “presence of some third parties during normally privileged discussions between an attorney and client will not automatically waive that privilege when the third party is an agent of the client or the attorney.” *Saipan Achugao Resort Members’ Ass’n v. Wan Jin Yoon*, 8 N. Mar. I. 676, slip op. (N. Mar. I. Commw. Super Ct. Nov. 1, 2005), 05-11-01-CV03-0187.

9

Does the Northern Mariana Islands have a privilege that protects the privacy of communication between a parent and a child? The Northern Mariana Islands do not have an established 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).