



Minors' Privacy Toolkit

Oklahoma

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 Oklahoma? Under Oklahoma statute, “minor” is defined to mean the same as “child”. “Child” means any unmarried person under eighteen years old. Okla. Stat. Ann. tit. 10A, § 1-1-105.

2

How does emancipation work in Oklahoma? A minor may petition the court to obtain the rights of majority by following the court procedure under Okla. Stat. Ann. tit. 10, § 92.

3

What laws in Oklahoma inform a minor's right to consent to services? The following minors may consent to professional health services in the following cases:

- Any minor who is married, has a dependent child, or is emancipated
- Any minor who is separated from, and not supported by, their parents or legal guardian
- Any minor who is or has been pregnant, afflicted with a reportable communicable disease, drug, alcohol and substance abuse
- Any minor parent as to their own child
- Any spouse of a minor when the minor is unable to give consent by reason of physical or mental incapacity
- Any minor who because of physical or mental capacity cannot consent and has no known relatives or legal guardian
- Any minor in need of emergency services for conditions which will endanger their health or life if delay would result by obtaining consent
- Any minor who is the victim of sexual assault who wants to consent to a forensic medical examination by a qualified licensed health care professional

Health care providers may be required to attempt to inform spouses, parents, or guardians of the treatment needed or provided. See Okla. Stat. Ann. tit. 63, § 2602.

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.

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.

4

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

5

What are the child abuse mandatory reporting obligations in Oklahoma?

Who is a mandatory reporter of child abuse? In Oklahoma, “every person having reason to believe that a child under eighteen years old is a victim of abuse or neglect must report the matter immediately to the Department of Human Services.” Okla. Stat. Ann. tit. 10A, § 1-2-101(B)(1).

Note that “every school employee having reason to believe that a student age eighteen (18) years or older is a victim of abuse or neglect shall report the matter immediately to local law enforcement.” Okla. Stat. Ann. Tit. 10A, § 1-2-101(B)(2).

“No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.” Okla. Stat. Ann. tit. 10A, § 1-2-101(B)(4).

How is “child” defined for purposes of Oklahoma’s mandatory reporting law? The child abuse or neglect reporting law references “a child under the age of eighteen (18) years.” Okla. Stat. Ann. tit. 10A, § 1-2-101(B)(1).

How is “abuse” defined? “Abuse” “means harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child’s health, safety, or welfare, including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation. Provided, however, that nothing contained in the Oklahoma Children’s Code shall prohibit any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.” Okla. Stat. Ann. tit. 10A, § 1-1-105(2).

Oklahoma further defines the terms “harm or threatened harm to the health or safety of a child,” “sexual abuse,” and “sexual exploitation.” See Okla. Stat. Ann. tit. 10A, § 1-1-105(2).

When must a mandatory reporter make a report? Immediately. Okla. Stat. Ann. tit. 10, § 1-2-101(B)(1).

What must be reported if I am required to report child abuse? Oklahoma law does not specify what must be reported.

To whom must I make a report when I’m required to do so? Reports are to be made to the Department of Human Services centralized hotline. Okla. Stat. Ann. tit. 10, § 1-2-101(B)(1).

6

Must I report 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 are the only licensed professions in Oklahoma that have a specific statutory duty to warn. See Okla. Stat. Ann. tit. 59, § 1376.

Certified Licensed professional counselors, marital and family therapists, and behavioral practitioners have a *permissive* duty to warn via confidentiality statutes. Oklahoma regulations pertaining to social workers reference a duty to warn as an exception to confidentiality; *however*, the “duty to warn” is not defined nor explained in such regulations. In the 1990 *Wofford* case (*Wofford v. E. State Hosp.*, 1990 OK 77, 795 P.2d 516, 518), the court stated that the existence of a duty depends on the relationship between the parties, and held that a duty exists when the psychiatrist has reason to know that a patient poses a potential threat to a third party. Oklahoma case law after *Wofford* has not clarified issues regarding the scope of the duty owed by a licensed or certified medical professional.

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? Under Oklahoma law, information and communications regarding clients “utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed.” Okla. Stat. Ann. § 75:15-5-4.

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Oklahoma? No Oklahoma statute addresses this issue.

9

Does Oklahoma 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).