



Minors' Privacy Toolkit

Rhode Island

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 Rhode Island? Under Rhode Island law, a minor is a person under eighteen years old. 15 R.I. Gen. Laws § 15-12-1.

2

How does emancipation work in Rhode Island? There is no statute that outlines the process of emancipation, but Rhode Island recognizes emancipation in other statutes. For example, the rules relating to proceedings in family court require the court to develop policies for identifying procedural safeguards for the protection of children in the process of emancipation (See 14 R.I. Gen. Laws § 14-1-59.1.) and the laws relating to the treatment of juveniles for chemical dependency define a "child" or "minor" as any person under eighteen years of age who is not married, is not a parent, or is not emancipated. 14 R.I. Gen. Laws § 14-5-2.

Minors may petition the court to seek emancipation. Common law principles will apply as to whether emancipation is granted.

3

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

Routine medical treatment	Any person sixteen years or older or married may consent to routine emergency medical or surgical care. 23 R.I. Gen. Laws § 23-4.6-1. A minor parent may consent to treatment of their child. 23 R.I. Gen. Laws § 23-4.6-1.
Communicable diseases	Persons under eighteen years old may give legal consent for testing, examination, and treatment for any reportable communicable disease. 23 R.I. Gen. Laws § 23-11-11.
Sexually transmitted diseases	Persons under eighteen years old may give legal consent for examination and treatment for any sexually transmitted disease. See R.I. Gen. Laws § 23-11-11.

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.

<p>Substance abuse and chemical dependency</p>	<p>In the event a child refuses permission to contact parents to seek parental consent and if, in the judgment of a qualified professional, that contact would not be helpful or would be deleterious to a child who is voluntarily seeking treatment for substance abuse or chemical dependency, then non-invasive, non-custodial treatment services may be provided by a qualified professional without parental consent. 14 R.I. Gen. Laws § 14-5-4.</p> <p>An alcoholic may apply for voluntary treatment directly to an approved public treatment facility and if they are a minor or incompetent person, the alcoholic, a parent, legal guardian, or representative may make the application. 23 R.I. Gen. Laws § 23-1.10-9(a).</p>
<p>Reproductive health</p>	<p>Except in the case of a minor who has been found by a court to be emancipated, if a pregnant person is less than eighteen years old and not married, an abortion shall not be performed upon them unless both the consent of the pregnant person and that of at least one of their parents (or guardian, if both parents have died or are unavailable) is obtained. See 23 R.I. Gen. Laws § 23-4.7-6. A judge of the family court may authorize the abortion upon petition or motion.</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 CFR § 59.11.</p>

4

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

5

What are the child abuse mandatory reporting obligations in Rhode Island?

Who is a mandatory reporter of child abuse? In Rhode Island, any person who has reasonable cause to know or suspect that a child has been abused or neglected must report the abuse. R.I. Gen. Laws § 40-11-3.

How is “child” defined for purposes of Rhode Island mandatory reporting law? A child means a person under eighteen years old. 40 R.I. Gen. Laws § 40-11-2.

How is “abuse” defined? “Abused or neglected child” means a child whose physical or mental health or welfare is harmed, or threatened with harm, when their parent or other person responsible for their welfare commits certain defined acts, including physical or mental injury, sexual abuse, sexual assault, sexual exploitation, abandonment, and others. For the complete definition, see 23 R.I. Gen. Laws § 40-11-2.

When must a mandatory reporter make a report? Reports of must be made within twenty-four hours. 23 R.I. Gen. Laws § 40-11-3.

What must be reported if I am required to report child abuse? No specific requirements for the report contents are identified in Rhode Island statutes.

To whom must I make a report when I'm required to do so? Reports must be made to the Department of Children, Youth and Families – Child Protective Services.

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.

All health care providers in Rhode Island are *permitted* by statute to disclose otherwise confidential health care information if they believe that a patient presents a danger to another person. The provider *may* disclose that information to the person, to the person’s family, or to law enforcement. R.I. Gen. Laws §§ 5-37.3-3(4), 5-37.3-4(b)(4)(i).

The Rhode Island Supreme Court has considered the possibility of a common-law “duty to control,” which may, in certain circumstances, compel a mental health provider to initiate civil commitment proceedings against a patient. *See Santana v. Rainbow Cleaners*, 969 A.2d 653 (R.I. 2009).

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? No privilege for communications between a domestic violence and sexual assault advocate and their patient exists in Rhode Island.

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Rhode Island? Rhode Island does not have a victim advocate or similar privilege.

9

Does Rhode Island have a privilege that protects the privacy of communication between a parent and a child? Rhode Island does 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).