



Vermont

Minors' Privacy Toolkit

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 Vermont? Under Vermont law, a minor is a person under eighteen years old. See Vt. Stat. Ann. tit. 1, § 173.

2

How does emancipation work in Vermont? An “[e]mancipated minor” is a minor who: (A) has been married; (B) is on active duty with any of the U.S. Armed Forces; or (C) has been ordered emancipated (under Vt. Stat. Ann. tit. 12, § 7155). Vt. Stat. Ann. tit. 12, § 7151.

3

What laws in Vermont inform a minor's right to consent to services? Any individual under the age of eighteen is considered a minor and generally is not entitled to give informed consent to their own medical care until they turn eighteen.

There are some exceptions, namely for minors over twelve years old who are “suspected either (a) to be dependent upon regulated drugs, (b) to have venereal disease, or (c) to be an alcoholic, and the finding of such dependency or disease or alcoholism is verified by a licensed physician, the minor may give (1) consent to medical treatment and hospitalization, and (2) in the case of a drug dependent or alcoholic person, non-medical inpatient or outpatient treatment at a program approved by the agency of human services. The parents or guardian shall be notified if the minor requires immediate hospitalization.” See Vt. Stat. Ann. tit. 18, § 4226. Also, minors fourteen years old or older may apply for voluntary admission to a designated hospital for examination and treatment for a mental health issue. Vt. Stat. Ann. tit. 18, § 7503(a).

4

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

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.

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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 Vermont.

What are the child abuse mandatory reporting obligations in Vermont?

Who is a mandatory reporter of child abuse? Vermont has a list of mandatory reporters, such as:

- Health care providers (such as physicians, interns, nurses, and psychologists)
- School employees or contractors (including superintendents, principals, teachers, student teachers, and guidance counselors)
- Mental health professionals (including social workers)
- Childcare professionals (including camp counselors, administrators, and owners)
- Members of the clergy.

Vt. Stat. Ann. tit. 33, § 4913.

How is “child” defined for purposes of Vermont’s mandatory reporting law? A child means an individual under the age of majority (eighteen years old). Vt. Stat. Ann. tit. 33, § 4912(3).

How is “abuse” defined? In Vermont, an abused or neglected child means a child whose physical health, psychological growth and development, or welfare is harmed or is at substantial risk of harm by the acts or omissions of their parent or other person responsible for the child’s welfare. See Vt. Stat. Ann. tit. 33, § 4912(1).

Vermont mandatory reporting law further defines terms including “risk of harm,” and “sexual abuse.” See Vt. Stat. Ann. tit. 33, § 4912 for the complete definitions list.

When must a mandatory reporter make a report? If a mandatory reporter reasonably suspects child abuse or neglect, they are legally required to report within twenty-four hours of the time they first received or observed information about the suspected abuse or neglect. Vt. Stat. Ann. tit. 33, § 4913(c).

What must be reported if I am required to report child abuse? Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child’s care, if known; the age of the child; the nature and extent of the child’s injuries together with any evidence of previous abuse and neglect of the child or the child’s siblings; and any other information that might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. Vt. Stat. Ann. tit. 33, § 4914.

To whom must I make a report when I’m required to do so? A report shall be made orally to the Family Services Division of the Department of Children and Families followed by a written report, unless the reporter is anonymous. Vt. Stat. Ann. tit. 33, § 4914.

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.

Vermont recognizes a “mental health professional’s duty to avert a serious risk of danger.” 18 Vt. Stat. Ann. § 1882. The statute requires mental health professionals who know or should know “based on the standards of the mental health profession” that a patient “poses a serious risk of danger to an identifiable victim” to protect the victim from that danger. *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. “A victim receiving direct services from a crisis worker has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to the crisis worker, including any record made in the course of providing support, counseling, or assistance to the victim.” Vt. Stat. Ann. tit. 12, § 1614(b).

A communication is defined as “confidential” if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of services to the victim or those reasonably necessary for the transmission of the communication. See Vt. Stat. Ann. tit. 12, § 1614(a)(2).

A “crisis worker” is a person who meets certain qualifications under the law in terms of training and certification so this privilege may not apply to all advocates. See Vt. Stat. Ann. tit. 12, § 1614(a)(1).

8

Does a parent or guardian’s presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Vermont? Not necessarily. Since a communication is confidential if it is not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of services to the victim or those reasonably necessary for the transmission of the communication, the analysis will hinge on why the parent or guardian is present. See Vt. Stat. Ann. tit. 12, § 1614(a)(2).

9

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