



Minors' Privacy Toolkit

U.S. Virgin 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 U.S. Virgin Islands? Under U.S. Virgin Islands law, a minor is a person under eighteen years old. V.I. Code Ann. tit. 5, § 2502(7) (“‘Child’ means an individual under the age of 18 years.”); V.I. Code Ann. tit. 5, § 2502(30) (“The terms ‘child’, ‘juvenile’ and ‘minor’ are used interchangeably throughout this chapter and carry the same definition as ‘child’, indicated above.”).

2

How does emancipation work in the U.S. Virgin Islands? The law recognizes four kinds of emancipation: (1) emancipation conferring the power to administer property when sixteen or older (V.I. Code Ann. tit. 16, § 231); (2) emancipation by marriage (V.I. Code Ann. tit. 16, § 241); (3) judicial emancipation after a minor loses both parents (V.I. Code Ann. tit. 16, § 251); and (4) emancipation by reason of having attained the age of majority (V.I. Code Ann. tit. 16, § 261). V.I. Code Ann. tit. 16, § 221. A minor may also “be emancipated against the will of his father or mother when they ill treat him or refuse to maintain and educate him or when they give him corrupt examples.” V.I. Code Ann. tit. 16, § 232.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect
V.I. Code Ann. tit. 16, § 233 (Emancipation to administer property); V.I. Code Ann. tit. 19, § 203.	Governing property and person; consent to health care.	“Until they attain majority such emancipated person cannot make any promise or contract any obligation exceeding in value the amount of their income for one year, unless emancipated under the provisions of Sections 221-261.” Neither can they encumber or sell their real property, without the consent of the court Nor may they appear in a suit without the appearance of a guardian ad litem.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect
V.I. Code Ann. tit. 16, § 241 (Emancipation by marriage); V.I. Code Ann. tit. 19, § 203.	Consent to health care.	In order to alienate and mortgage any real property or to contract loans, a minor emancipated by marriage shall require the consent of their father, mother, or guardian.
V.I. Code Ann. tit. 16, § 254 (Judicial Emancipation); V.I. Code Ann. tit. 19, § 203.	For all legal effects; consent to health care.	
V.I. Code Ann. tit. 16, § 261 (Emancipation by Majority); V.I. Code Ann. tit. 19, § 203.	Control of own actions and business and all the rights and liabilities of persons of full age; consent to health care.	

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

Emergency medical services	A minor can consent to treatment for any emergency medical or surgical treatment in which undue delay would endanger their life or health. V.I. Code Ann. tit. 19, §§ 291, 293.
Sexually transmitted disease treatment	A minor can consent to treatment for communicable diseases. V.I. Code Ann. tit. 19, §§ 291, 293.
Family planning	A minor can consent to treatment for family planning services. V.I. Code Ann. tit. 19, §§ 291, 293. A minor can consent to treatment for pregnancy, including abortion. V.I. Code Ann. tit. 19, §§ 291, 293. 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.
Mental health treatment	A minor can consent to treatment for behavioral health services. V.I. Code Ann. tit. 19, §§ 291, 293.
Substance abuse treatment	A minor can consent to treatment for drug or controlled substance abuse and behavioral health services. V.I. Code Ann. tit. 19, §§ 291, 293.

Note: V.I. Code tit. 19, § 292 provides that the physician or surgeon may, with or without the consent of the minor patient, advise the parent, parents, or legal guardian of examination, treatment, hospitalization, and medical and surgical care given or needed if physician or surgeon has reason to know the whereabouts of the parent(s) or legal guardian. However, the statute does not make consent mandatory. V.I. Code Ann. tit. 19, § 292 further states that, in the event that the minor is found not to be pregnant, not afflicted with venereal disease, or not suffering from drug or controlled substance abuse, then no information about any appointment, examination, test, or other medical procedure shall be given to the parent(s), legal guardian, or any other person.

4

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

5

What are the child abuse mandatory reporting obligations in the Virgin Islands?

Who is a mandatory reporter of child abuse? In the U.S. Virgin Islands, the following are mandatory reporters: “Any medical or mental health professional (includes physicians, nurses, and other treating personnel), school personnel (including teachers), social service worker, day-care worker or other child-care or foster-care worker, or any peace officer or law enforcement official.” V.I. Code Ann. tit. 5, § 2533.

How is “child” defined for purposes of the Virgin Island’s mandatory reporting law? “Child” means an individual under the age of eighteen years. V.I. Code Ann. tit. 5, § 2502(7).

How is “abuse” defined? “Abuse means any physical or mental injury inflicted on a child, other than by accidental means, by those responsible for the care and maintenance of the child, which injury causes or creates a substantial risk of death, serious or protracted disfigurement, protracted impairment of physical or emotional health or loss or protracted impairment of the function of any bodily organ. Abuse includes the sexual abuse of a child, as defined by law, or the sexual exploitation, including the prostituting of a child and the photographing or other depiction of a child for pornographic purposes, or a persistent course of sexual conduct that causes a child’s health or welfare to be harmed or threatened.” V.I. Code Ann. tit. 5, § 2502(2).

When must a mandatory reporter make a report? The report must be made immediately. V.I. Code Ann. tit. 5, § 2533(b).

At the request of the Department of Social Welfare, an oral report shall be followed by a written report within 48 hours. V.I. Code Ann. tit. 5, § 2534(a).

What must be reported if I am required to report child abuse? A report must include:

- Names and addresses of child and parents or other persons responsible for their care
- Child’s age and sex
- Nature and extent of child’s injuries, sexual abuse, or neglect to child or any other child in same home
- Name and address of person responsible for the injuries, sexual abuse or neglect; family composition; source of report, including name of person making report, their occupation and their address
- Any action taken by the reporting source

See V.I. Code Ann. tit. 5, § 2534(b).

To whom must I make a report when I'm required to do so? Reports shall be made to U.S. Virgin Islands Police Department or to the Department of Social Welfare.

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.

Behavioral health providers and psychotherapists are *permitted* to disclose confidential communications if a patient expresses an intent to engage in conduct likely to result in imminent death or serious physical injury to the patient or another individual. V.I. Code Ann. tit. 5, § 853(d)(5).

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? The U.S. Virgin Islands does not recognize privileged communications between advocates and victims.

8

Does a parent or guardian's presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in the U.S. Virgin Islands? No. The U. S. Virgin Islands does not recognize privileged communications between advocates and victims.

9

Does the Virgin Islands 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).

Endnotes

- 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.