



# California

## 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.<sup>1</sup> 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](mailto:TA@victimrights.org).

1

**Who is a “minor” in California?** All persons under eighteen years of age are minors under California law. Cal. Fam. Code § 6500.

2

**How does emancipation work in California?** “A person under eighteen years of age is an emancipated minor if any of the following apply: The person has entered into a valid marriage; the person is on active duty with the U.S. armed forces; or the person has received a declaration of emancipation pursuant to Section 7122. Cal. Fam. Code § 7002.

Someone at least fourteen years old who willingly lives separate and apart from their parents or guardian with their consent or acquiescence, who manages their own financial affairs, and who provides a declaration of income and expenses, and whose source of income is not derived from any criminal activity, may petition for a declaration of emancipation.” Cal. Fam. Code § 7120.

Emancipation statute	Minor as adult for these purposes
Emancipation of Minors Law – Cal. Fam. Code § 7000 et seq.	<p>Cal. Fam. Code § 7050:</p> <ol style="list-style-type: none"> <li>a. Minor's right to support by their parents.</li> <li>b. Right of minor's parents to minor's earnings and to control minor.</li> <li>c. Application of Sections 300 and 601 of the Welfare and Institutions Code.</li> <li>d. Ending all vicarious or imputed liability of the minor's parents or guardian for minor's torts. Nothing in this section affects any liability of parent, guardian, spouse, or employer imposed by Vehicle Code, or any vicarious liability that arises from agency relationship.</li> <li>e. Minor's capacity to: [Lists seventeen rights granted to emancipated minors, including to consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability; to enter into binding contract or give delegation of power; and to sue or be sued in minor's own name].</li> </ol> <p>Cal. Fam. Code § 7051: Insurance contracts.</p> <p>Cal. Fam. Code § 7052: Some rights regarding stock shares and similar property.</p>

## What laws in California inform a minor's right to consent to services?

<p><b>Reproductive health</b></p>	<p><b>Pregnancy:</b> “A minor may consent to medical care related to the prevention or treatment of pregnancy,” except the law does not authorize a minor to be sterilized without consent of their parent or guardian. Cal. Fam. Code § 6925. Contraception: A minor may receive birth control without parental consent. Cal. Fam. Code § 6925.</p> <p><b>Abortion:</b> A minor may consent to an abortion without parental consent. Cal. Fam. Code § 6925; <i>American Academy of Pediatrics v. Lungren</i>, 16 Cal. 4th 307 (1997).</p> <p><b>Pregnancy/Contraception/Abortion:</b> A health care provider may not inform a parent or legal guardian without the minor's consent. The provider can only share the minor's medical information with them with a signed authorization from the minor. Cal. Health &amp; Safety Code §§ 123110(a), 123115(a)(1); Cal. Civ. Code §§ 56.10, 56.11; <i>Lungren</i>, 16 Cal. 4th 307.</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 C.F.R. § 59.11.</p>
<p><b>General medical</b></p>	<p>“A minor may consent to the minor's medical care or dental care if all of the following conditions are satisfied: (1) The minor is 15 years of age or older. (2) The minor is living separate and apart from the minor's parents or guardian, whether with or without the consent of a parent or guardian and regardless of the duration of the separate residence. (3) The minor is managing the minor's own financial affairs, regardless of the source of the minor's income.” Cal. Fam. Code § 6922(a).</p> <p>Note: “A physician and surgeon or dentist may, with or without the consent of the minor patient, advise the minor's parent or guardian of the treatment given or needed if the physician and surgeon or dentist has reason to know, on the basis of the information given by the minor, the whereabouts of the parent or guardian.” Cal. Fam. Code § 6922(c). However, a representative of a minor is not entitled to inspect or obtain copies of the minor's patient records where the health care provider determines that access to the records would have a detrimental effect on “the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being.” Cal. Health &amp; Safety Code § 123115(a)(2).</p>
<p><b>Mental health and chemical dependency</b></p>	<p><b>Mental Health:</b> “A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis or to residential shelter services, if both of the following requirements are satisfied: (1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services; [AND] (2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.” Cal. Fam. Code § 6924(b).</p> <p><b>Mental Health:</b> “[A] minor who is 12 years of age or older may consent to [outpatient] mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.” Cal. Health &amp; Safety Code § 124260.</p>

<p><b>Mental health and chemical dependency, cont.</b></p>	<p>Note re: Mental Health: The health care provider is required to involve a parent or guardian in minor’s treatment unless health care provider decides such involvement is inappropriate. This decision and attempts to contact parents must be documented in minor’s record. Cal. Fam. Code § 6924(d); 45 C.F.R. 164.502(g)(3)(ii).</p> <p><b>Chemical Dependency:</b> “A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem.” Cal. Fam. Code § 6929(b).</p> <p>Note re: Chemical Dependency: Cal. Fam. Code § 6929(c) parallels confidentiality rule described under “Note re: Mental Health,” above.</p>
<p><b>Other</b></p>	<p><b>Sexual Assault Services:</b> “A minor who [may] have been sexually assaulted may consent to medical care related to the diagnosis and treatment of the condition, and the collection of medical evidence with regard to the ... assault.” Cal. Fam. Code § 6928(b).</p> <p><b>Rape Services (under twelve years old):</b> A minor under twelve years of age who may have been raped “may consent to medical care related to the diagnosis and treatment of the condition, and the collection of medical evidence with regard” to the rape. Cal. Fam. Code § 6928(b).</p> <p><b>Rape Services (over twelve years old):</b> “A minor who is 12 years of age or older and who is alleged to have been raped may consent to medical care related to the diagnosis or treatment of the condition and the collection of medical evidence with regard to the alleged rape.” Cal. Fam. Code § 6927. Note: The health care provider must attempt to contact the minor’s parent or guardian and note in minor’s record day and time of attempted contact and whether successful. This provision does not apply if treating professional reasonably believes that parent or guardian committed the assault. Cal. Fam. Code § 6928(c).</p>

**4**

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

**5**

**What are the child abuse mandatory reporting obligations in California?**  
**Who is a mandatory reporter of child abuse?** In California, over 45 professionals are mandatory reporters. (See Cal. Pen. Code § 11165.7 for a full list). These reporters include:

- Attorneys (with exceptions)
- Social workers
- Mental health professionals (with exceptions)
- Health care providers
- School employees

**How is “child” defined for purposes of California’s mandatory reporting law?** As used in the Child Abuse and Neglect Reporting Act, “child” means a person under the age of eighteen years. Cal. Pen. Code § 11165.

**How is “abuse” defined?** As used in the Child Abuse and Neglect Reporting Act, the term “child abuse or neglect” includes:

- Physical injury or death inflicted by other than accidental means upon a child by another person
- Sexual abuse (as defined in Section 11165.1)
- Neglect (as defined in Section 11165.2)
- Willful harming or injuring of a child or the endangering of the person or health of a child (as defined in Section 11165.3)
- Unlawful corporal punishment or injury (as defined in Section 11165.4)

Cal. Penal Code § 11165.6.

**When must a mandatory reporter make a report?** A “mandated reporter shall make the report ... whenever the mandated reporter, in the mandated reporter’s professional capacity or within the scope of the mandated reporter’s employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written follow up report within 36 hours of receiving the information concerning the incident.” Cal. Pen. Code § 11166(a).

**What must be reported if I am required to report child abuse?** Reports of suspected child abuse or neglect “shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child’s name, the child’s address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child’s parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.” Cal. Penal Code § 11167(a).

**To whom must I make a report when I’m required to do so?** “Reports of suspected child abuse or neglect shall be made by mandated reporters ... to any police or sheriff’s department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department.” Cal. Pen. Code § 11165.9.

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**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.

In California, psychotherapists have an affirmative duty to protect a reasonably identifiable victim or victims from serious threats of physical violence. Cal. Civ. Code § 43.92; *Regents of Univ. of Cal. v. Superior Ct.*, 29 Cal. App. 5th 890 (2018).

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](mailto: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?** A victim of a sexual assault has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor whether or not the victim is a party to the action. Cal. Evid. Code § 1035.8.

A victim of domestic violence has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor in any proceeding specified in Section 901 whether or not the victim is a party to the action. Cal. Evid. Code § 1037.5.

8

**Does a parent or guardian's presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in California?** So long as the victim and the sexual abuse counselor communicate in confidence and in such a way that “discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted,” then the sexual assault counselor-victim privilege is not waived. Cal. Evid. Code § 1035.4. The same language governs the domestic violence counselor-victim privilege. Cal. Evid. Code § 1037.2(a).

9

**Does California have a privilege that protects the privacy of communication between a parent and a child?** California has no parent-child privilege. *De Los Santos v. Superior Court*, 27 Cal. 3d 677, 682 (1980).

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**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).

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## 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/](https://www.americanbar.org/groups/legal_services/flh-home/flh-hire-a-lawyer/). Or contact your jurisdiction's coalition or bar association.