



# Iowa

## 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).

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**Who is a “minor” in Iowa?** Generally, in Iowa, a minor is a person under the age of eighteen. However, all minors attain their majority by marriage, and a minor tried, convicted, and sentenced as an adult attains their majority for the purposes of making decisions, giving consent to medical care, related services, and treatment during the period of incarceration. Iowa Code § 599.1.

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**How does emancipation work in Iowa?** Under Iowa law, a minor must be at least sixteen years old for a court to enter a judgment of emancipation. Iowa Code § 232C.1. Emancipation grants minors only specified rights of majority. Iowa Code § 232C.4.

Emancipation statute	Minor as adult for these purposes	Emancipation does not affect
Iowa Code § 232C	The ability to sue or be sued; the right to enter into contracts; the right to establish a legal residence; the right to incur debts; the right to consent to medical, dental, or psychiatric care. Iowa Code § 232C.4.	Voting restrictions, gambling restrictions, alcohol restrictions, compulsory school attendance requirements, and cigarette tobacco restrictions. A minor shall not automatically be considered an adult for prosecution because emancipated. Iowa Code § 232C.4.

<sup>1</sup> 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.

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

<p><b>Reproductive health</b></p>	<p><b>Any age:</b> A minor shall have the legal capacity to act and give consent to the provision of medical care or services for the prevention, diagnosis, or treatment of a sexually transmitted disease or infection by a hospital, clinic, or health care provider; the consent of any other person shall not be necessary. Iowa Code § 139A.35. Any person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly. However a minor shall be informed prior to testing that, upon confirmation of a positive HIV-related test result, the minor's legal guardian is required to be informed by the testing facility (exempting testing facilities which are precluded by federal law from informing legal guardians). Iowa Code § 141A.7(3).</p> <p>A licensed physician shall not perform an abortion on a pregnant minor until at least forty-eight hours' prior notification is provided to a parent of the pregnant minor. Iowa Code § 135L.3 If the pregnant minor objects to the notification, the minor may petition the court to authorize a waiver of notification if they are "mature and capable of providing informed consent for the performance of an abortion"; or if the minor is "not mature, or does not claim to be mature, but that notification is not in the best interest of the pregnant minor." Iowa Code § 135.L.3(e).</p> <p><b>Note:</b> 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><b>Age seventeen or older:</b> A minor age seventeen may donate blood in a voluntary and non-compensatory program. A sixteen-year-old may donate to the same programs with written consent from a parent or guardian. Iowa Code § 599.6.</p>
<p><b>Mental health and chemical dependency</b></p>	<p><b>Any age:</b> Any person may apply for voluntary admission to a public or private hospital for observation. Iowa Code § 229.2(1). In the case of a minor, a parent, guardian, or custodian may make application for admission of the minor. The minor has a right to object to the admission, and the chief medical officer must inform the minor orally and in writing of the right to object. Iowa Code § 229.2(1)(b)(2). If the minor objects, the parent, guardian, or custodian must petition the juvenile court for approval of the admission before the minor is actually admitted. Iowa Code § 229.2(1)(b)(2). The code does not address outpatient treatment.</p> <p><b>Any age:</b> A minor seeking treatment for a substance-related disorder may give legal consent for voluntary treatment and shall not be reported or disclosed to legal guardians without the minor's consent. Iowa Code § 125.33. Only the subject of the treatment may consent to the disclosure of substance abuse information, regardless of the subject's age or condition. Iowa Code § 125.33.</p>
<p><b>Other</b></p>	<p>Minor who has been subject to unlawful sexual conduct or forcible felony may be provided immediate and short term medical or mental health services without prior written consent of parents or guardian. Iowa Code § 915.35. If the professional is required to report an incidence of child abuse pursuant to Iowa Code § 232.69, the professional shall notify the minor of that requirement. Iowa Code § 915.35.</p>

## 4

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

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### **What are the child abuse mandatory reporting obligations in Iowa?**

**Who is a mandatory reporter of child abuse?** In Iowa, there is a long list of mandatory reporters. (See Iowa Code § 232.69 for a complete list.) Some of the most relevant reporters include:

- Social workers
- Mental health professionals (with exceptions)
- Health care providers
- School employees
- Substance abuse professionals
- Peace officers

Any person *may* make a report pursuant to Iowa Code § 232.70.

**How is “child” defined for purposes of Iowa’s mandatory reporting law?** A child is any person under the age of eighteen years. Iowa Code § 232.68.

**How is “abuse” defined?** “Child abuse” or “abuse” means per Iowa Code § 232.68(2)(a):

- (1) “Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.
- (2) Any mental injury to a child’s intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child’s ability to function within the child’s normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional, as defined by section 622.10.
- (3) The commission of a sexual offense with or to a child pursuant to chapter 709, section 726.2 or section 728.12, as a result of the acts or omissions of the person responsible for the care of the child or a person who is fourteen years of age or older and resides in a home with the child. Notwithstanding section 702.5, the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.
  - (a) The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment,

supervision, or any other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so.

- (b) For the purposes of subparagraph (a), failure to provide for the adequate supervision of a child means the person failed to provide proper supervision of a child that a reasonable and prudent person would exercise under similar facts and circumstances and the failure resulted in or created a risk of harm to the child.
  - (c) A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.
- (4) The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1. Notwithstanding section 702.5, acts or omissions under this subparagraph include an act or omission referred to in this subparagraph with or to a person under the age of eighteen years.
- (5) An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.
- (6) The person responsible for the care of a child, in the presence of a child, as defined in section 232.2, subsection 6, paragraph "p", unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or knowingly allows such use, possession, manufacture, cultivation, or distribution by another person in the presence of a child; possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child; or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance specified in section 232.2, subsection 6, paragraph "p", subparagraph (2), subparagraph division (a), (b), or (c), in a child's home, on the premises, or in a motor vehicle located on the premises.
- (7) The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.
- (a) A person who is responsible for the care of a child knowingly allowing another person custody of, control over, or unsupervised access to a child under the age of fourteen or a child with a physical or mental disability, after knowing the other person is required to register or is on the sex offender registry under chapter 692A.
  - (b) This subparagraph does not apply in any of the following circumstances:
    - (i) A child living with a parent or guardian who is a sex offender required to register or on the sex offender registry under chapter 692A.
    - (ii) A child living with a parent or guardian who is married to and living with a sex offender required to register or on the sex offender registry under chapter 692A.
    - (iii) A child who is a sex offender required to register or on the sex offender registry under chapter 692A who is living with the child's parent, guardian, or foster parent and is also living with the child to whom access was allowed.

(c) For purposes of this subparagraph, “control over” means any of the following:

- (i) A person who has accepted, undertaken, or assumed supervision of a child from the parent or guardian of the child.
  - (ii) A person who has undertaken or assumed temporary supervision of a child without explicit consent from the parent or guardian of the child.
- (8) The person responsible for the care of the child has knowingly allowed the child access to obscene material as defined in section 728.1 or has knowingly or exhibited such material to the child.
- (9) The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of commercial sexual activity as defined in section 710A.1.”

**Note:** “Child abuse” or “abuse” shall not be construed to hold a victim responsible for failing to prevent a crime against the victim. Iowa Code § 232.68(2)(b).

**When must a mandatory reporter make a report?** Any mandatory reporter shall make a report within twenty-four hours of cases of child abuse or suspected child abuse when the reporter reasonably believes the child has been abused. Iowa Code § 232.69.

**What must be reported if I am required to report child abuse?** Each report by a mandatory reporter shall be made both orally and in writing. Iowa Code § 232.70(1). The reports should contain the following information per Iowa Code § 232.70(6):

- Names and address of child and their parents or other persons responsible for their care
- Child’s age
- Nature and extent of child’s injuries, including evidence of previous injuries
- Name, age, and condition of other children in same home
- Any other information that might be helpful in establishing cause of the injury to child, identity of person or persons responsible for the injury, or in aiding child
- Name and address of person making the report

**To whom must I make a report when I’m required to do so?** The oral report shall be made by telephone or otherwise to the department of human services. Iowa Code § 232.70(3). If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency. Iowa Code § 232.70(3). The written report shall be made to the department of human services within forty-eight hours after the oral report. Iowa Code § 232.70(4).

**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 Iowa, a “mental health professional” has a duty to report “in circumstances where the individual has communicated to the mental health professional an imminent threat of physical



violence against the individual's self or against a clearly identifiable victim or victims." Iowa Code § 228.71(2). "A mental health professional discharges the professional's duty to disclose ... by making reasonable efforts to communicate the threat to a law enforcement professional." Iowa Code § 228.71(3). The individual must have "the apparent intent and ability to carry out the threat." Iowa Code § 228.71(1)(c).

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.

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**May domestic violence and sexual assault advocates have privileged communications with a minor survivor?** A "victim counselor" may not testify in any civil or criminal proceeding as to any confidential communication made by a victim to the victim counselor unless the victim waives the privilege. Iowa Code § 915.20A(2). A minor may waive the privilege under this section unless, in the opinion of the court, the minor is incapable of knowingly and intelligently waiving the privilege. Then a parent or guardian may waive the privilege on the minor's behalf if the parent or guardian is not the defendant and does not have such a relationship with the defendant that the parent or guardian has an interest in the outcome of the proceeding being favorable to the defendant. Iowa Code § 915.20A(4).

There are exceptions to this privilege including an exception for evidence related to a child's injuries (see Iowa Code § 915.20A(5)).

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**Does a parent or guardian's presence during an otherwise privileged communication waive a victim-advocate, or similar, privilege in Iowa?** "Confidential information" is defined for purposes of the privilege, to mean "information which, so far as the victim is aware, is not disclosed to a third party with the exception of a person present in the consultation for the purpose of furthering the interest of the victim, a person to whom disclosure is reasonably necessary for the transmission of the information, or a person with whom disclosure is necessary for accomplishment of the purpose for which the counselor is consulted by the victim." Iowa Code § 915.20A(1)(a). The presence of a parent or guardian would not waive the privilege in these situations.

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**Does Iowa have a privilege that protects the privacy of communication between a parent and a child?** Iowa does not have a parent-child privilege.

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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).