

ARGUMENTS TO POTENTIALLY REFUSE A PARENT'S ACCESS TO A MINOR'S RECORDS

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The most clear-cut situation in which a DV program may refute a parent's access to his/her child's records is when a program receives a Violence Against Women Act (VAWA) grant and the parent signing for release is abusive to either the other parent or the child. These programs must not release a minor's records without the consent of both the minor and a non-abusive parent or guardian. However, there are other arguments below that a program may consider to refuse a parent's access to a child's records. See the Q&A's below.

Q: Can a mother, who is a resident of a DV program with her children, obtain a copy of her children's records while she is living at the program/shelter?

A: Subject to VAWA grant provisions, grantees and subgrantees shall not

reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, *except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.*

[34 U.S.C. § 12291\(b\)\(2\)\(B\)\(ii\)](#) (emphasis added).

So, a DV program receiving a VAWA grant may release a minor's records only when it has the consent of both the minor and a non-abusive parent or guardian. If the minor's mother is also the minor's abuser or if she abused the other parent, then the VAWA grant conditions prohibit mother from consenting to the release of the minor's records.

If the minor may legally receive services without their parent's or guardian's consent, they may also release information without their consent. *Id.*

Q: Can the mother, who is a resident of a DV program with her children, obtain a copy of her children's records when she leaves the program?

A: This answer is the same analysis as above. A DV program receiving a VAWA grant may release a minor's records only when it has the consent of both the minor and a non-abusive parent. If the minor's mother is also the minor's abuser, then the VAWA grant conditions contain an explicit exception prohibiting an abuser of the minor from providing consent to release the minor's records. *Id.*

Q: Can a parent who is not staying at a shelter obtain their children's records from their children's stay at a domestic violence shelter?

A: Under VAWA, a DV program receiving a grant may only release records to a non-abusive parent when it has the consent and signature of both the minor and the parent. So long as the parent requesting

records was not the abuser of the minor, an incapacitated person, or the other parent, and if the minor consents, the parent can access the minors' records.

Q: What if the parent has been denied legal custody?

A: A parent who has been denied legal custody of a child does not have the right and responsibility to make major decisions concerning the child including consent for various activities. Wis. Stat. § [767.001\(2\)](#).

Q: What if the records are treatment records of the child's therapist?

A: A minor who is 14 years old or older must consent in addition to their parent's consent in order for their parents to access their outpatient or inpatient mental health treatment records. Wis. Stat. § [51.13](#).