WEST VIRGINIA CODE: §48-26-701

§48-26-701. Confidentiality.

(a) A program licensed pursuant to this article may not disclose, reveal, or release or be compelled to disclose, reveal, or release, any written records or personal or personally identifying information about a program participant created or maintained in providing services, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected, pursuant to this article except:

(1) Upon written consent, or upon oral consent in emergency situations defined by legislative rule, of the person seeking or who has sought services from the program;

(2) In any proceeding brought under §9-6-4 and §9-6-5 of this code or §49-4-601 through §49-4-610 of this code;

(3) As mandated by §49-2-801 through §49-2-814 and §9-6-1 *et seq.* of this code;

(4) Pursuant to an order of any court based upon a finding that the information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section;

(5) To protect against a clear and substantial danger of imminent injury by a person receiving services to himself or herself or another; or

(6) As authorized by the releases signed by abuse intervention program participants pursuant to the provisions of subsection (b) of this section.

(b) Abuse intervention program participants shall authorize the release of information by signing the following releases:

(1) Allowing the provider to inform the victim or alleged victim and the victim's advocates that the participant is participating in a abuse intervention program with the provider and to provide information to the victim or alleged victim and her or his advocates, if necessary, for the victim's or alleged victim's safety;

(2) Allowing prior and current service providers to provide information about the participant to the provider;

(3) Allowing the provider, for good cause, to provide information about the participant to relevant legal entities, including courts, parole officers, probation officers, child protective services, adult protective services, law enforcement, licensed domestic violence programs, or other referral agencies;

(4) Allowing the provider to report to the court, if the participation was court ordered, and to

WV Legislature

the victim or alleged victim, if she or he requests and provides a method of notification, and to her or his advocate, any assault, failure to comply with program requirements, failure to attend the program, threat of harm by the participant, reason for termination, and recommendations for changes in the court order; and

(5) Allowing the provider to report to the victim or alleged victim, or her or his advocate, without the participant's authorization, all perceived threats of harm, the participant's failure to attend, and reason for termination.

(c) Monitored parenting and exchange programs may disclose to one parent or guardian, without the permission of the other parent or guardian, any perceived threat of harm or violation of the court order or violation of the monitored parenting and exchange program rules by the other parent or guardian.

(d) A monitored parenting and exchange program may not release information about the child without consent of the parent with custodial responsibility or guardian.

(e) In addition to the provisions set forth in this section, the release of a victim's personally identifying information is subject to the provisions of 42 U.S.C. § 13925(b)(2).

(f) A consent or authorization for the transmission or disclosure of confidential information is not effective unless it is signed by the program participant whose information is being disclosed. Every person signing an authorization shall be given a copy.

(g) A victim of domestic violence, dating violence, sexual assault, or stalking shall not be required to provide consent to release his or her personally identifying information as a condition of eligibility for the services, nor may any personally identifying information be shared in order to comply with federal or state reporting, evaluation, or data collection requirements: *Provided*, That nothing in this section prohibits a program from reporting suspected abuse or neglect, as defined by law, when the program is mandated by law to report suspected abuse or neglect.

www.legislature