

IN THE CIRCUIT COURT OF [Insert County] COUNTY, WEST VIRGINIA

In re:

Case No.:

Adult Respondent:

**ORDER FOR OBTAINING RECORDS AND/OR TESTIMONY FROM LICENSED DOMESTIC VIOLENCE PROGRAMS FOR CHILD ABUSE AND NEGLECT PROCEEDINGS**

This Court, for the purposes of assessing parental protective capacity, compliance with case planning, and child safety and well-being and in accordance with VAWA 2013 Section 3: 34 U.S.C. 12291 (a)(20) & (b)(2); VAWA amended the McKinney-Vento Homeless Assistance Act at (42 U.S.C. 11383) (VAWA 2005, Section 605); FVPSA 42 U.S.C. 10406(c)(5); and West Virginia Code § 48-26-701, does hereby ORDER that the [INSERT DOMESTIC VIOLENCE PROGRAM] release the following regarding [INSERT ADULT RESPONDENT'S NAME], date of birth [INSERT ADULT RESPONDENT'S DATE OF BIRTH]: (INITIAL ALL THAT APPLY)

Agency records regarding;

- \_\_\_\_\_ SAFeR Assessment DV Specialist Summary Report
- \_\_\_\_\_ A list of services provided pursuant to any in-home or out of home safety plans
- \_\_\_\_\_ A list of services provided pursuant to a family Case Plan
  
- \_\_\_\_\_ Testimony regarding the aforementioned agency records

Written documentation in any form that is related to the aforementioned records shall be deemed confidential and provided only to the following parties:

West Virginia Department of Health and Human Resources

\_\_\_\_\_ Guardian *ad litem*

\_\_\_\_\_ [print party name]

\_\_\_\_\_ [print party name]

\_\_\_\_\_ [print party name]

\_\_\_\_\_ [print party name]

It is FURTHER ORDERED that all documents received in response to this order shall be kept confidential and may not be used for purposes other than those described in this order.

The Circuit Court Clerk shall provide a certified copy of this order to the West Virginia Department of Health and Human Resources, [IDENTIFY APPLICABLE COUNTY], WV; [IDENTIFIED LICENSED DOMESTIC VIOLENCE PROGRAM]; all counsel of record; and any pro se parties and persons entitled to notice.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge

Prepared by:

\_\_\_\_\_

# Legal Justification for use of Form Order

## **Confidentiality: VAWA & FVPSA<sup>1</sup>**

The Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA) contain strong confidentiality provisions that limit the sharing of victims' personally identifying information, including entering information into public records and databases. These provisions affirm confidentiality practices that protect the safety and privacy of victims of domestic violence, dating violence, sexual assault, and stalking. The following provides some basic information about these provisions.

### **1. How do federal VAWA and FVPSA provisions protect victim information?**

The U.S. Congress has legally codified the importance of victim confidentiality in two sections of VAWA and in FVPSA:

- VAWA
  - Universal Grant Conditions: Nondisclosure of Confidential or Private Information (VAWA 2013 Section 3: 42 U.S.C. 13925 (a)(20) & (b)(2))
  - VAWA amended the McKinney-Vento Homeless Assistance Act at (42 U.S.C. 11383) (VAWA 2005, Section 605)
- FVPSA 42 U.S.C. 10406(c)(5)

### **2. How do VAWA Section 3 and FVPSA confidentiality provisions protect victim information?**

VAWA Section 3 and FVPSA prohibit sharing personally identifying information about victims without informed, written, reasonably time-limited consent. These confidentiality grant conditions also prohibit programs from asking survivors to share personally identifying information as a condition of service.

Additionally, no program can share personally identifying information to comply with Federal, Tribal, or State reporting, evaluation, or data collection requirements.

These provisions allow survivors to request that their personal confidential information be shared by a victim service provider for a specific purpose through a time-limited, informed, and written release. The release of information (specific and time-limited) must be for services requested by the survivor and they must be fully informed of all possible consequences of disclosure, as well as alternative ways to obtain the service they are requesting.

VAWA and FVPSA also permit limited sharing when mandated by state law or a valid court order, and in either circumstance the VAWA/FVPSA-funded program must protect the survivor's information as much as possible. Because permissive child abuse reporting is not a mandate, it is not allowed. Always check with your state coalition to assess if any child abuse law *actually* mandates reporting by individuals in a VAWA/FVPSA-funded program.

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<sup>1</sup> *NNEDV Confidentiality: VAWA & FVPSA*

[http://nnedv.org/downloads/SafetyNet/VAWA\\_FVPSA\\_Confidentiality\\_2013.pdf](http://nnedv.org/downloads/SafetyNet/VAWA_FVPSA_Confidentiality_2013.pdf)