



# WISCONSIN ACT 351: VICTIM ACCOMPANIMENT LAW

## WISCONSIN ACT 351 WAS SIGNED INTO LAW APRIL 11, 2016.

This law gives victims of sexual assault, human trafficking, commercial sexual exploitation, and child sexual abuse the right to be accompanied during medical care, law enforcement interviews, and court proceedings, if they choose, by an advocate.

### WHO IS AN ADVOCATE?

Act 351 defines an advocate as an individual with specialized knowledge & training who is an employee or volunteer for an organization that provides counseling, assistance or support services free of charge.

### WHAT IS ADVOCACY PRIVILEGE?

Act 351 explains, "a victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated among the victim, an a victim advocate who is acting in the scope of his or her duties as an a victim advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of an a victim advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim." Advocacy privilege is the ability of advocates to hold confidential conversations with clients that don't have to be disclosed in court. This is protected by law. Confidentiality requires advocates to keep information about a victim between the victim, advocate & advocate's agency, only releasing information as permitted by the victim. Some advocates may be required to report suspected child abuse & neglect, including reports by teens of exchanging sexual activity for resources, to Child Protective Services, even if the information is learned in a confidential conversation.

### ACCOMPANIMENTS DURING MEDICAL CARE

"A hospital that provides emergency services to a victim of sexual assault, human trafficking, or child sexual abuse shall, at the request of the victims, permit an advocate to accompany the victims to any examination or consultation performed (including overall body care, evidence collection, STI, and/or pregnancy testing, & more) at the hospital as a result of the violation..." Hospitals are required to notify and victim of their right to be accompanied by an advocate for individuals 10 and older. Hospitals do not have to wait for an advocate to arrive before examining or treating the victim if "delay would endanger the health or safety of the victim or risk loss of evidence."

### ACCOMPANIMENTS DURING LAW ENFORCEMENT INTERVIEWS

A victim has the right to be accompanied by an advocate at "law enforcement interviews" and at "interviews and proceedings at which the victim is requested or allowed to attend that are related to the crime committed against the victim, including prosecution interviews, department of corrections proceedings, court proceedings, and post-conviction proceedings."

### ACCOMPANIMENTS WITH MINORS

"A minor who is a victim of sexual assault, human trafficking, or child sexual abuse may make a request...for an advocate to accompany them without the consent of their parent, guardian, or legal custodian."





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### WHEN DOES AN ADVOCATE NOT PROVIDE ACCOMPANIMENT?

#### **WHEN A VICTIM DOESN'T WANT AN ADVOCATE.**

According to the Act 351, a victim, including minors, can request that the advocate can be excluded from any examination or consultation and the advocate **MUST** comply with their request! It is their choice!

#### **FOR VERY SPECIFIC REASONS IN HOSPITAL SETTINGS.**

These reasons include the following: "the presence or continued presence of the advocate obstructs the provision of necessary medical care to the victim, the advocate fails to comply with hospital policies governing the conduct of individuals accompanying patients in the hospital, the hospital has knowledge that the advocate, in their role as an advocate, has in the past failed to agree or comply with confidentiality requirements relating to another individual at a hospital OR failed to comply with a request by a victim to exclude the advocate."

#### **FOR VERY SPECIFIC REASONS DURING LAW ENFORCEMENT INTERVIEWS.**

The advocate can be excluded if they violate any of the following rules: "may not obstruct or delay a law enforcement interview, shall comply with the victim's requests or instructions, shall comply with any rule, policy, or requirement established by the law enforcement agency regarding confidentiality of information relating to the investigation, may not disclose information not previously disclosed to the general public to any person besides to an individual or agency to that is providing counseling, or support services to the victim to the extent the disclosure is reasonably necessary to assist in the provision of counseling, assistance, or support services (meaning advocates can communicate with clients, supervisors, and colleagues as necessary regarding counseling, assistance, and support services)."

#### **FOR VERY SPECIFIC REASONS DURING FORENSIC INTERVIEWS.**

Advocates can be excluded from a child forensic interview and the child advocacy if they do not comply with the following rules, an advocate "may not obstruct or delay a forensic interview conducted at or on behalf of a child advocacy center, shall comply with any instructions or requests from lead forensic interviewer, including excluding themselves from the interview room, and shall comply with any rule, policy or requirement established by the child advocacy center."

### **READ WISCONSIN ACT 351 FOR YOURSELF**

<https://docs.legis.wisconsin.gov/2015/related/acts/351>

### **ADAPTED FROM WCASA'S SUMMARY OF WISCONSIN'S VICTIM ACCOMPANIMENT LAW**

[https://wcasa.s3.us-east-](https://wcasa.s3.us-east-2.amazonaws.com/resources/WCASA%20Summary%20of%20Victim%20Accompaniment%20Law%2004%2021%2016.pdf)

[2.amazonaws.com/resources/WCASA%20Summary%20of%20Victim%20Accompaniment%20Law%2004%2021%2016.pdf](https://wcasa.s3.us-east-2.amazonaws.com/resources/WCASA%20Summary%20of%20Victim%20Accompaniment%20Law%2004%2021%2016.pdf)

