



Survey Of Select State Laws Explicitly Addressing The Confidentiality Of Victim Offender Dialogues

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The table that follows lists state statutes that provide for Victim Offender Dialogue (VOD). VOD is a victim-centered, offender-sensitive facilitated preparation and dialogue process typically involving a victim, his/her/their offender and a trained volunteer mediator. The table surveys the states' laws to determine which explicitly provide for confidentiality in the statements made during VOD.

The information in this table is based solely on the search of state statutes for "victim offender dialogue," "victim offender mediation," or "restorative justice".

JURIS-DICTION	EXPLICIT STATUTORY AND/OR REGULATORY PROVISION(S)	EXPLICIT STATUTORY PROVISION ON CONFIDENTIALITY
D.C.	None	
Alabama	<p>Ala. Code § 12-25-32(2)(b)(23)(iii). Intermediate punishment. A sentence that may include assignment to any community based punishment program or may include probation with conditions or probation in conjunction with a period of confinement. Intermediate punishments include, but are not limited to, all of the following options: Restorative justice as established in Section 12-17-226.6.(iii) Voluntary victim offender mediation.</p> <p>Ala. Code § 12-17-226.6(h). The district attorney and the presiding judge may establish a Restorative Justice Initiative within the judicial circuit for any case in the circuit or district court. The guidelines, rules, and mechanisms for such an initiative shall be promulgated by the Alabama Office of Prosecution Services and the Administrative Office of Courts.</p>	No.
Alaska	<p>Alaska Delinquency R. 23(f)(3)(Victim-Offender Mediation) (Restorative Justice Programs). The term "restorative justice program" means a program using a process in which persons having an interest in a specific offense collectively resolve how to respond to the offense, its aftermath, and its implications for the future. Restorative justice programs include, but are not limited to, circle sentencing, family group conferencing, reparative boards, and victim/offender mediation. For purposes of this rule, the term "restorative justice program" does not include the Alaska Court System's therapeutic courts.</p> <p>Alaska R. Crim. Proc. 11(i)(3)(Restorative Justice Programs).</p>	No.
Arizona	<p>Nothing found when searching for "victim offender dialogue," "victim offender mediation," or "restorative justice program. But:</p> <p>Ariz. Rev. Stat. Ann. § 12-299.01(D). Monies may be used to develop or expand the range of community punishment programs and services at the local level. Programs and services may include the following:</p> <p>1. Noncustodial programs and services which involve supervision and surveillance but do not involve housing the offender in a jail or residential facility. Examples include community work service supervision, victim restitution supervision, house arrest, electronic monitoring, victim-offender reconciliation or mediation, alcohol or drug abuse outpatient treatment and psychological or psychiatric counseling.</p>	No.
Arkansas	<p>Ark. Code Ann. § 6-18-516(E)(1)(b) (Restorative Justice). Restorative justice. (2) The department shall: (A) Develop information concerning the resources needed by school districts to reduce discipline and the restraint of students with disabilities using the</p>	No.

	<p>strategies in subdivision (e)(1) of this section; and (B) Provide the information for inclusion in the educational adequacy study required under § 10-3-2102(a)(1)-(4).</p> <p>2013 Ark ALS 1190 refers to “restorative justice” but only in terms of equitable reentry into society.</p>	
California	1991 Bill Text CA A.B. 3011(Victim-Offender Mediation), 1993 Bill Text CA A.B. 2299.	No.
Colorado	<p>Colo. Rev. Stat. Ann. § 17-28-103. The department is authorized to establish a pilot program, when funds become available, in its correctional facilities to facilitate victim-initiated victim-offender conferences whereby a victim of a crime may request a facilitated conference with the offender who committed the crime, if the offender is in the custody of the department. After such a pilot program is established, the department may establish policies and procedures for the victim-offender conferences using volunteers to facilitate the conferences. The volunteers shall complete the department's volunteer and facility-specific training programs and complete high-risk victim-offender training and victim advocacy training. The department shall not compensate or reimburse a volunteer or victim for any expenses nor otherwise incur any additional expenses to establish or operate the victim-offender conferences pilot program. If a pilot program is available, and subsequent to the victim's or the victim representative's request, the department shall arrange such a conference only after determining that the conference would be safe and only if the offender agrees to participate. The purposes of the conference shall be to enable the victim to meet the offender, to obtain answers to questions only the offender can answer, to assist the victim in healing from the impact of the crime, and to promote a sense of remorse and acceptance of responsibility by the offender that may contribute to his or her rehabilitation.</p>	<p>No, <i>but see</i>: Sheila D. Porter & David B. Ells, <i>Mediation Meets the Criminal Justice System</i>, Colo. Law., 11/1994, at 2521, 2524 (“In Colorado, general mediation confidentiality provisions are provided in CRS § 13-22-307. Although there are no specific victim-offender mediation statutes in Colorado, when juvenile offenders are involved, the provisions of the Children's Code also apply. See the confidentiality provisions in CRS §§ 19-1-119 and 19-2-1104.5.”).</p>
Connecticut	None	No.
Delaware	Victim-Offender Mediation Del Code Ann. Tit. 11, §§ 9501-9505.	<p>Del. Code Ann. tit. 11, § 9502. The data shall maintain the confidentiality and anonymity of all mediation participants.</p> <p>Del. Code Ann. tit. 11, § 9503. Any communication relating to the subject matter of the resolution made during the mediation process by any participant, mediator or any other person is a privileged communication and is not subject to disclosure in any judicial or administrative proceeding unless all parties to the communication waive the privilege.</p>

Florida	None	
Georgia	None	
Hawaii	None	
Idaho	None	
Illinois	None	
Indiana	<p>Ind. Code Ann. § 35-40-6-4(9). In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:</p> <p>(A) meet with the accused person or the offender in a safe, controlled environment;</p> <p>(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and</p> <p>(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.</p> <p>Ind. Code Ann. § 35-40-6-5(a). If a victim participates in a victim-offender reconciliation program (VORP) operated by a victim assistance program under section 4(9) of this chapter, the victim shall execute a waiver releasing:</p> <p>(1) the prosecuting attorney responsible for the victim assistance program; and</p> <p>(2) the victim assistance program;</p> <p>from civil and criminal liability for actions taken by the victim, an accused person, or an offender as a result of participation by the victim, the accused person, or the offender in a victim-offender reconciliation program (VORP).</p> <p>(b) A victim is not required to participate in a victim-offender reconciliation program (VORP) under section 4(9) of this chapter.</p>	No.
Iowa	None	
Kansas	Restorative justice centers & programs mentioned, but no statutory authority found.	
Kentucky	None	
Louisiana	La. Stat. Ann. § 46:1846(C). A person who has been sentenced for a crime of violence as defined in R.S. 14:2, or any immediate family member of such person, shall be prohibited from communicating, either by electronic communication, in writing, or orally, with a victim of the offense, or any of his immediate family members, for which the person has been sentenced unless the victim or his immediate family members initiate the communication through the Department of Public Safety and Corrections, and it is agreed that the victim and the offender participate in a formally defined restorative justice program administered through the department.	No.

	- But cannot find statutory authority for program	
Maine	None	
Maryland	There are some victim offender mediation programs offered by state's attorney, but no statutory authority found.	
Massachusetts	None	
Michigan	Mich. Comp. Laws Ann. § 798.33(3). Agency may establish rules and regulations ... (e) Facilitating victim-offender dialogue if the victim is willing. Mich. Comp. Laws Ann. § 798.31(a) "Agency" means both of the following: (i) The department of corrections. (ii) Any regional, local, or county governmental agency that receives state funding and that is responsible for supervising individuals who are placed on probation or who are serving a period of parole or postrelease supervision from a prison or jail.	No.
Minnesota	Minn. Stat. Ann. § 611A.775. A community-based organization, in collaboration with a local governmental unit, may establish a restorative justice program. A restorative justice program is a program that provides forums where certain individuals charged with or petitioned for having committed an offense meet with the victim, if appropriate; the victim's family members or other supportive persons, if appropriate; the offender's family members or other supportive persons, if appropriate; a law enforcement official or prosecutor when appropriate; other criminal justice system professionals when appropriate; and members of the community, in order to: (1) discuss the impact of the offense on the victim and the community; (2) provide support to the victim and methods for reintegrating the victim into community life; (3) assign an appropriate sanction to the offender; and (4) provide methods for reintegrating the offender into community life.	No.
Mississippi	None	
Missouri	Mo. Ann. Stat. § 217.777. RE: community programs: 6. The department may staff programs created pursuant to this section with employees of the department or may contract with other public or private agencies for delivery of services as otherwise provided by law.	No.
Montana	Mont. Code Ann. § 2-15-2013(1). The purposes of the restorative justice grant programs are to: (a) promote the use of restorative justice practices throughout the state... Mont. Code Ann. § 46-23-903. The department, in consultation with the reentry task force, shall:	No.

	... (3) coordinate with community restorative justice programs to ensure that victim concerns and opportunities for restorative justice practices, including restitution, are considered during an offender's reentry...	
Nebraska	<p>Neb. Rev. Stat. Ann. § 43-247.03(1). In any juvenile case, the court may provide the parties the opportunity to address issues involving the child's care and placement, services to the family, restorative justice, and other concerns through facilitated conferencing or mediation. Facilitated conferencing may include, but is not limited to, prehearing conferences, family group conferences, expedited family group conferences, child welfare mediation, permanency prehearing conferences, termination of parental rights prehearing conferences, and juvenile victim-offender dialogue.</p> <p>Neb. Rev. Stat. Ann. § 43-247.03(c). Juvenile victim-offender dialogue means a court-connected process in which a facilitator meets with the juvenile offender and the victim in an effort to convene a dialogue in which the offender takes responsibility for his or her actions and the victim is able to address the offender and request an apology and restitution, with the goal of creating an agreed-upon written plan; and</p> <p>Neb. Rev. Stat. Ann. § 43-260.06. A juvenile diversion agreement shall include, but not be limited to, one or more of the following: ... (6) Upon agreement of the victim, participation in juvenile offender and victim mediation.</p>	<p>Neb. Rev. Stat. Ann. § 25-2914. Any verbal, written, or electronic communication made in or in connection with matters referred to mediation which relates to the controversy or dispute being mediated and agreements resulting from the mediation, whether made to the mediator, the staff of an approved center, a party, or any other person attending the mediation session, shall be confidential. Mediation proceedings shall be regarded as settlement negotiations, and no admission, representation, or statement made in mediation, not otherwise discoverable or obtainable, shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during mediation proceedings unless all the parties consent to a waiver. Confidential communications and materials are subject to disclosure when all parties agree in writing to waive confidentiality regarding specific verbal, written, or electronic communications relating to the mediation session or the agreement. This section shall not apply if a party brings an action against the mediator or center, if the communication was made in furtherance of a crime or fraud, or if this section conflicts with other legal requirements.</p>
Nevada	None	
New Hampshire	<p>N.H. Rev. Stat. Ann. § 21-H:4(VIII). Victim-Offender Dialogue. The victim-offender dialogue program which shall be a victim-initiated, voluntary program to assist crime victims who seek access to restorative justice programs as provided under RSA 21-M:8-k, II(u), under the direction of the victim services coordinator who shall:</p> <p>(a) Implement and oversee the program. (b) Advocate for the rights of crime victims.(c) Provide corrections-based victim services including but not limited to:(1) Notification of offender status changes.(2) Victim-initiated victim-offender dialogue. (3) Advocacy, safety, and support for victims during reduced custody,</p>	No.

	<p>offender re-entry, and hearings of the adult parole board. Participation in the program shall not affect the court's decision relative to sentencing, parole, or other types of supervised or unsupervised release programs.</p> <p>N.H. Rev. Stat. Ann. §21-M:8-h(V). Victim may be reimbursed for expenses associated with the victim's participation in post-conviction proceedings and victim-offender dialogue programs or other restorative justice program.</p>	
New Jersey	None	
New Mexico	None	
New York	N.Y. Comp. Codes R. & Regs. tit. 9, § 351.7. Office of Victim Services will fund victim-offender mediation, but no statute establishing a program; division of probation and correctional alternatives may offer victim-offender mediation(4) offering or referring for victim/offender mediation.	No.
North Carolina	NC R WAKE CTY JUV MED. The Juvenile Mediation program for the Tenth Judicial District will seek to bring victim and offender together in the same room, face to face, to try to repair the harm that has been done. The program will seek to allow the victim to explain how they have been harmed, to allow the offender to take responsibility for the harm and then allow for the parties, as well as other family and community members, to arrive at a solution that will repair the harm which has been done.	No.
North Dakota	None	
Ohio	<p>Ohio Rev. Code Ann. § 2929.01(GG). "Victim-offender mediation" means a reconciliation or mediation program that involves an offender and the victim of the offense committed by the offender and that includes a meeting in which the offender and the victim may discuss the offense, discuss restitution, and consider other sanctions for the offense.</p> <p>Ohio Rev. Code Ann. § 307.62(B). In addition to any money from another source appropriated for the same purpose, the board of county commissioners of any county may appropriate to a county agency, or grant to a private, nonprofit corporation or association, the money derived from a tax levied pursuant to division (II) of section 5705.19 of the Revised Code, for the public purpose of providing and maintaining in the county a crime victim assistance program offering crisis intervention services, emergency services, support services, court-related services, crime prevention services, or victim and offender mediation services.</p>	No.

Oklahoma	<p>Okla. Stat. Ann. tit. 22, § 991a(A)(1)(m). [T]o be placed in a victims impact panel program, as defined in subsection H of this section, or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes.</p> <p>57 Okla. St. § 521.2(C)(10). The Transformational Justice Interagency Task Force shall...Include victims in the reentry process and facilitate victim-offender dialogue when the victim is willing.</p>	<p>Okla. Stat. Ann. tit. 12, § 1805(A). Any information received by a mediator or a person employed to assist a mediator, through files, reports, interviews, memoranda, case summaries, or notes and work products of the mediator, is privileged and confidential.</p>
Oregon	<p>OR LAWS 2017 Ch. 442, § 1(1)(a). The Psychiatric Security Review Board may develop a restorative justice program to assist the recovery of crime victims when a person is found guilty except for insanity of a crime or responsible except for insanity for an act.</p> <p>(b) The board may enter into a contract with a nonprofit educational institution or other nonprofit organization that provides for the administration of the restorative justice program by the institution or organization.</p> <p>Or. Admin. R. 166-150-0080(7). Special Programs (Diversion Programs): Series describes programs that are implemented by county juvenile departments that act as diversions to first and second time misdemeanor offenders. The programs are individual to each respective county department and may not exist in every county juvenile department. Programs may include but are not limited to assault diversion, trespass diversion, anger management and conflict resolution, work crew programs, victim offender mediation, and intake programs for low-risk offenders. (Minimum retention: Until the individual is 18 years old).</p>	<p>OR LAWS 2017 Ch. 442, § 1(2). Any documents or oral communications created, submitted or provided for use in the restorative justice program are confidential, exempt from public disclosure...</p>
Pennsylvania	None	
Rhode Island	None	
South Carolina	None	

South Dakota	None	
Tennessee	<p>Tenn. Code Ann. § 16-20-102(a). A victim-offender mediation center may be created and operated by a corporation organized to resolve disputes. The corporation shall not be organized for profit and no part of the net earnings may inure to the benefit of any private shareholders or individuals. The majority of the directors of the corporation shall not consist of members of any single profession.</p> <p>(b) To be eligible for funds under this chapter, a center must do the following: ...</p> <p>(3) Provide victim-offender mediation in felony, misdemeanor and juvenile delinquent cases without cost to the participants.</p>	<p>Tenn. Code Ann. § 16-20-103(a). All memoranda, work notes or products, or case files of centers established under this chapter are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless the court or administrative tribunal determines that the materials were submitted by a participant to the center for the purpose of avoiding discovery of the material in a subsequent proceeding. Any communication relating to the subject matter of the resolution made during the resolution process by any participant, mediator, or any other person is a privileged communication and is not subject to disclosure in any judicial or administrative proceeding unless all parties to the communication waive the privilege.</p> <p>(b) The privilege and limitation on evidentiary use described in subsection (a) does not apply to any communication of a threat that injury or damage may be inflicted on any person or on the property of a party to the dispute, to the extent the communication may be relevant evidence in a criminal matter. Such communications shall not be construed to be public records pursuant to title 10, chapter 7.</p>
Texas	<p>Tex. Gov't Code Ann. § 508.324. Victim-Offender Mediation. If the pardons and paroles division receives notice from the victim services office of the department that a victim of the defendant, or the victim's guardian or close relative, wishes to participate in victim-offender mediation with a person released on parole or to mandatory supervision, the division shall cooperate and assist the person if the person chooses to participate in the mediation program provided by the office. The pardons and paroles division may not require the defendant to participate and may not reward the person for participation by modifying conditions of release or the person's level of supervision or by granting any other benefit to the person.</p> <p>Tex. Crim. Proc. Code Ann. art. 56.13. The victim services division of the Texas Department of Criminal Justice shall: (1) train volunteers to act as mediators between victims, guardians of victims, and close relatives of deceased victims and offenders</p>	<p>Tex. Civ. Prac. & Rem. Code Ann. § 154.073(a). Except as provided by Subsections (c), (d), (e), and (f), a communication relating to the subject matter of any civil or criminal dispute made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.</p> <p>Tex. Civ. Prac. & Rem. Code Ann. § 154.073(g) This section applies to a victim-offender</p>

	whose criminal conduct caused bodily injury or death to victims; and (2) provide mediation services through referral of a trained volunteer, if requested by a victim, guardian of a victim, or close relative of a deceased victim.	mediation by the Texas Department of Criminal Justice as described in Article 56.13, Code of Criminal Procedure.
Utah	Utah Code Ann. § 78A-6-117(2)(h)(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.	No
Vermont	<p>Vt. Stat. Ann. tit. 28, § 2a. It is the intent of the General Assembly that law enforcement officials develop and employ restorative justice approaches whenever feasible and responsive to specific criminal acts, pursuant to 3 V.S.A. §§ 163 and 164, concerning court diversion, 13 V.S.A. chapter 221, concerning sentencing, and the provisions of this title, concerning persons in the custody of the Commissioner of Corrections. It is the further intent of the General Assembly that such restorative justice programs be designed to encourage participation by local community members, including victims, when they so choose, as well as public officials, in holding offenders accountable for damage caused to communities and victims, and in restoring offenders to the law-abiding community, through activities:</p> <p>(1) Which require offenders to:</p> <p>(A) acknowledge wrongdoing and apologize to victims;</p> <p>(B) make restitution for damage to the victims, consistent with provisions of 13 V.S.A. chapter 221 and of this title;</p> <p>(C) make reparation for damage to the community by fulfilling a community service; and</p> <p>(D) when relevant, successfully complete treatment addressing the offense or other underlying problematic behavior, or undertake academic or vocational training or other self-improving activity.</p>	<p>Vt. Stat. Ann. tit. 24, § 1964(a). Each community justice center:</p> <p>(1) shall have an advisory board comprising at least 51 percent citizen volunteers;</p> <p>(2) may use a variety of community-based restorative justice approaches, including restorative justice panels, group conferencing, or mediation; and</p> <p>(3) shall include programs to resolve disputes, address the needs of victims, address the wrongdoing of the offender, and promote the rehabilitation of youthful and adult offenders.</p> <p>(b) Meetings of restorative justice panels and meetings to conduct restorative justice group conferencing or mediation shall not be subject to the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2.</p>
Virginia	<p>Va. Code Ann. § 19.2-11.4(A). Any Crime Victim and Witness Assistance Program may establish a victim-offender reconciliation program to provide an opportunity after conviction for a victim, at his request and upon the subsequent agreement of the offender, to:</p> <ol style="list-style-type: none"> 1. Meet with the offender in a safe, controlled environment in accordance with the policies established pursuant to subsection B of § 53.1-30; 2. Give to the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim or the victim's family; and 3. Discuss a proposed restitution agreement which may be submitted for consideration by the sentencing court for damages incurred by the victim as a result of the offense. <p>B. If the victim chooses to participate in a victim-offender reconciliation program under this section, the victim shall execute a waiver releasing the Crime Victim and Witness Assistance Program, attorney for the offender and the attorney for the Commonwealth from civil and criminal liability for actions taken by the victim or</p>	No.

	<p>offender as a result of participation by the victim or the offender in a victim-offender reconciliation program.</p> <p>C. A victim shall not be required to participate in a victim-offender reconciliation program under this section.</p> <p>D. The failure of any person to participate in a reconciliation program pursuant to this section shall not be used directly or indirectly at sentencing.</p>	
Washington	<p>Wash. Rev. Code Ann. § 13.40.070(11). The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.</p>	No.
West Virginia	<p>W. Va. Code Ann. § 49-4-725(a). The court or prosecuting attorney may divert a juvenile referred to the court for a status offense or for a nonviolent misdemeanor offense to a restorative justice program, where available, prior to adjudication.</p> <p>(b) A restorative justice program shall:</p> <p>(1) Emphasize repairing the harm against the victim and the community caused by the juvenile;</p> <p>(2) Include victim-offender dialogues or family group conferencing attended voluntarily by the victim, the juvenile offender, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile offender that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the crime and to participate in setting consequences to repair the harm; and</p> <p>(3) Implement sanctions for the juvenile, including, but not limited to, restitution to the victim, restitution to the community, services for the victim or the community, or any other sanction intended to provide restitution to the victim or the community.</p> <p>(c) If a juvenile is referred to, and successfully completes, a restorative justice program, the petition against the juvenile shall be dismissed.</p> <p>(d) No information obtained as the result of a restorative justice program is admissible in a subsequent proceeding under this article.</p>	No.
Wisconsin	<p>Wis. Stat. Ann. § 938.34(5r). Victim-offender mediation program. Order the juvenile to participate in a victim-offender mediation program if the victim of the juvenile's delinquent act agrees.</p>	No.
Wyoming	None	