

## State Restorative Justice Legislation 2020 – 2025: Confidentiality, Admissibility & Privilege

*For more than three decades, restorative justice practices have been used in criminal, civil, and administrative matters across the country. Confidentiality is a central principle and functional element of restorative justice theory and practices — and increasingly state law and policy has codified protections for parties and practitioners.*

States have increasingly codified the use of restorative justice practices and processes within statutes, court rules, or administrative orders.<sup>1</sup> In 2020, a national systematic review found that specific to criminal matters, restorative justice had been included in more than 264 laws in 46 jurisdictions.<sup>2</sup> The research noted that despite the growth of restorative justice in criminal legal matters, in “more than 84% of the jurisdictions examined” no formal state protections existed for statements made prior to or during restorative justice practices.<sup>3</sup> Since 2020, however, the number of statutes addressing confidentiality, admissibility, and privilege for restorative justice practices and processes has more than doubled.

*As of August 2025, lawmakers in 9 states have enacted 14 new confidentiality, admissibility, and privilege statutes providing a range of protections for the use of restorative justice in criminal, civil, and administrative proceedings.<sup>4</sup>*

Consistent with prior research and analyses<sup>5</sup> of protections for system-based restorative justice, there is significant variance among the states. For example, 2021 legislation in Illinois provides that “[a]nything said or done during or in preparation for a restorative justice practice or as a follow-up to that practice, or the fact that the practice has been planned or convened” is privileged.<sup>6</sup> Further, Colorado’s 2021 legislation provides that “any statements made during the restorative justice process are confidential”<sup>7</sup> and bars the admittance into evidence of the diversion “risk screening tool and any information obtained from a juvenile in the course of any screening.”<sup>8</sup> In contrast, the 2021 Texas provision is limited to victim offender mediations controlled by the Department of Criminal Justice (Texas).<sup>9</sup>

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*This analysis is a policy tool intended to increase free public access to information about state legislation and educate policymakers, community leaders, and practitioners about evolving legal standards and safeguards for individuals and communities engaged with state-based restorative justice. It presents key take-aways across the states and 14 individual statute summaries. While difference in form and content exist across the states, the research confirms an upward trend in legislation of enforceable legal protections for restorative justice practices and processes across multiple systems and matters.*

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*Why does confidentiality, admissibility and privilege matter? Restorative justice theory and practice is grounded in a principle of open, transparent communication. Laws that protect the integrity of restorative justice practices help to promote increased positive outcomes for participants. In the context of criminal matters, specifically, legal protections reinforce the integrity of restorative justice as an effective evidence-based alternative<sup>10</sup> to traditional adjudication and safeguard the rights of practitioners and participants from future system engagement and harm.<sup>11</sup>*

## **In brief: how do states legislate protections for restorative justice practices?**

As Table 1 and the following individualized analysis indicate, there is a clear legislative trend toward implementing new substantive protections for state-based restorative justice. Of the 14 statutes codified between 2020 – 2025:

- 12 create *substantive legal protections*.
  - 9 include confidentiality provisions<sup>12</sup>
  - 9 address admissibility provisions<sup>13</sup>
  - 3 evidentiary privilege provisions<sup>14</sup>
- 2 are *declarative in nature* (expressing legislative intent without attaching enforceable protections).
- 10 provide for *protections during and after* restorative justice practices and 8 for actions taken *in preparation* of restorative justice practices.
- 9 provide protections of restorative justice practices *in juvenile justice matters*.<sup>15</sup>
- 12 include *exception or waiver provisions*, with the most common forms falling into four categories: threats of harm/safety exceptions; mandatory reporting obligations (e.g., child abuse and elder abuse); waiver by participant consent; and evidence of ongoing or future criminal activity.

*How were the state laws in this analysis collected? Using Westlaw as a primary aggregator, laws were identified using an open coding process applied to a five-year period for 51 jurisdictions, e.g. 50 states and the District of Columbia. Initial coding found that more than 90 state laws and court rules were codified between 2020 – 2025 specific to restorative justice. Sub-analysis and coding specific to confidentiality, admissibility, and privilege protections identified 14 laws in 9 states.*

**Table 1. Classification of Confidentiality, Admissibility & Privilege Protections by Statute**

Statute	Confidentiality	Admissibility	Privilege	Protected Before RJ	Protected During RJ	Protected After RJ	Exceptions /Waivers
<u>Colo. Rev. Stat. § 19-2.5-102 (2024)</u>	X				X		X
<u>Colo. Rev. Stat. § 19-2.5-402 (2024)</u>		X			X	X	
<u>Ga. Ann. Code § 24-5-511 (2024)</u>		X	X	X	X	X	X
<u>735 Ill. Comp. Stat. 5/804.5 (2022)</u>		X	X	X	X	X	X
<u>Minn. Stat. § 595.02 (2024)</u>		X			X		X
<u>Or. Rev. Stat. § 147.607 (2023)</u>	X			X	X	X	X
<u>Or. Rev. Stat. § 147.610 (2023)</u>	X	X		X	X	X	X
<u>Or. Rev. Stat. § 420A.300 (2023)</u>	X	X		X	X	X	X* <sup>16</sup>
<u>Or. Rev. Stat. § 420A.310 (2023)</u>	X	X		X	X	X	X*
<u>Tex. Civ. Prac. &amp; Rem. Code Ann. § 154.073 (2024)</u>	X	X			X		X
<u>Utah R. Evid. 512</u>	X		X		X	X	X
<u>Vt. Stat. Ann. tit. 3, § 163 (2024)</u>	X			X	X	X	X
<u>Vt. Stat. Ann. tit. 3, § 164 (2024)</u>	X			X	X	X	X
<u>W. Va. Code § 49-4-725 (2021)</u>		X			X		

## A detailed view: what does each statute provide?

To better understand the differences and similarities between the statutes, the following section provides an analysis of the specific content, protections, and limitations of each statute across five primary indices: (1) how the statute defines restorative justice; (2) what aspects of restorative justice are protected; (3) how the aspects are protected; (4) when the protections apply; and (5) exceptions or waivers. This individualized indicates that while a trend of protection exists, there are key differences in legislative approaches specific to incorporating confidentiality, admissibility, and privilege protections by jurisdiction.

### A. Colo. Rev. Stat. § 19-2.5-102 (2024)

This statute applies specifically to juvenile participants in diversion programs that may occur at the prefiling or postfiling level as an alternative to criminal adjudication.

- (1) Restorative justice is defined as practices focused on repairing harm to the victim and community, including victim-offender conferences.
- (2) “Any statements made during the restorative justice process” are protected.
- (3) Such statements are “confidential and must not be used against the juvenile, or as a basis for charging or prosecuting the juvenile.”
- (4) These protections apply during the restorative justice process.
- (5) The protections do not apply if “the juvenile commits a chargeable offense during the process,” or a person is required to report child abuse or neglect, or a mental health provider must comply with a duty to warn.

### B. Colo. Rev. Stat. § 19-2.5-402 (2024)

This statute applies specifically to juvenile participants in diversion programs that may occur at the prefiling or postfiling level as an alternative to criminal adjudication.

- (1) Restorative justice is defined as practices focused on repairing harm to the victim and community, including victim-offender conferences.
- (2) The risk screening tool and any information obtained from the juvenile during any screening or assessment made to participate in a diversion or restorative justice program are protected.
- (3) Such information is not admissible as evidence in any adjudicatory hearing in which the juvenile is accused and is not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.
- (4) These protections apply during the screening or assessment, and after the screening or assessment.
- (5) No exceptions or waivers.

### C. Ga. Ann. Code § 24-5-511 (2024)

This statute applies to civil, criminal, juvenile, and administrative proceedings.

- (1) Restorative justice is defined as a victim centered practice or victim-offender dialogue.
- (2) Any communication or action made at any time while preparing for or participating in a victim centered practice or victim-offender dialogue, or as a follow up to the practice or dialogue, or the fact that the practice or dialogue has been planned or convened is protected.

- (3) Such information “shall be privileged and shall not be referred to, used, or admitted in any proceeding.”
- (4) These protections apply any time in preparation for or during participation of a victim centered practice or victim-offender dialogue, or as a follow up to the practice or dialogue.
- (5) The protections can be waived by the parties protected, and a waiver of privilege is limited to the waiving party only. The protections do not apply if there are threats of imminent violence, or the facilitator believes that a child is being abused or that the safety of any party or other person is in danger. Reports to courts, tribunals, or administrative bodies may occur but are limited to “the fact that a practice or dialogue has taken place and whether further practices or dialogues are expected.” The privilege does not override mandatory reporting requirements for child abuse, disabled adults, and elder persons. Evidence that is created or discovered outside of the victim centered practice or victim-offender dialogue is admissible and not protected from discovery, even if it was discussed or used in a victim centered practice or victim-offender dialogue.

**D. 735 Ill. Comp. Stat. 5/804.5 (2022)**

This statute applies to civil, criminal, juvenile, and administrative processes.

- (1) Restorative justice is defined as a “gathering, such as a conference or circle” that brings together those who have caused harm and those who have been harmed to “identify and repair harm,” “address harm,” “reduce the likelihood of further harm,” and “strengthen community ties” through a participatory process.
- (2) Anything said or done during or in preparation for a restorative justice practice or as a follow-up to that practice, or the fact that the practice has been planned or convened is protected.
- (3) Such information is privileged and cannot be referred to, used, or admitted as evidence, and is not subject to discovery or disclosure in any judicial or extrajudicial proceedings.
- (4) These protections apply during or in preparation for a restorative justice practice or as a follow-up to that practice.
- (5) The protections can be waived by the parties protected, and a waiver of privilege is limited to the waiving party only. The protections do not apply if “disclosure is necessary to prevent death, great bodily harm, or the commission of a crime”, or is “necessary to comply with another law.” Reports to courts, tribunals, or administrative bodies may occur but are limited to “the fact that a practice has taken place, an opinion regarding the success of the practice, and whether further restorative justice practices are expected.” If the legitimacy of a restorative justice practice is challenged, “the judge may consider information that would otherwise be privileged to the extent that the information is probative of the issue.” Evidence that is otherwise admissible or subject to discovery remains admissible or subject to discovery, even if it was discussed or used in a restorative justice practice.

**E. Minn. Stat. § 595.02 (2024)**

This statute applies to both civil and criminal proceedings and may occur before, after, and in conjunction with court involvement.

- (1) Restorative practice is defined as a practice within a program or policy that incorporates core restorative principles, including but not limited to victim-offender conferences, family group conferences, circles, community conferences, and other similar victim-centered practices.
- (2) Statements made or documents offered during a restorative practice are protected.
- (3) Such statements or documents “are not subject to discovery or admissible as evidence.”
- (4) These protections apply during the restorative practice.
- (5) The protections do not apply if statements or documents are the subject of a report made pursuant to the maltreatment of minors or vulnerable adults or constitute “evidence of professional misconduct by a restorative practice participant acting in the capacity of their professional or occupational license”, or “to prevent reasonably certain death, great bodily harm, or commission of a crime.” A person overseeing a court-ordered restorative practice may disclose information necessary to demonstrate whether the person who caused harm participated as ordered. Evidence that is otherwise admissible or subject to discovery remains admissible or subject to discovery, even if it was discussed or used in a restorative practice.

**F. Or. Rev. Stat. § 147.607 (2023)**

This statute is a declaratory law that states restorative justice communications are confidential in criminal, adjudicatory, or judicial proceedings, except in limited exceptions specified by statute.

**G. Or. Rev. Stat. § 147.610 (2023)**

This statute applies to criminal and administrative proceedings.

- (1) Restorative justice program is defined as a community-based program administered by a private or public entity that offers as a part of the program a facilitated dialogue between a crime victim or a survivor and the offender.
- (2) All restorative justice communications, including all written and oral communications made during or in connection with any phase of a restorative justice program, and all memoranda, work products, documents and other materials that are prepared for or submitted during, or in connection with, any phase of a restorative justice program are protected.
- (3) Such communications are confidential, exempt from public disclosure and may “not be used or disclosed by any restorative justice program staff members, facilitators, participants or any community members or persons who provide support to the restorative justice program, for any purpose unrelated to the program”, and are “not admissible as evidence in any administrative or judicial proceeding.”
- (4) These protections apply during, or in connection with, any phase of a restorative justice program.
- (5) The protections do not apply if “disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or substantial bodily injury to a specific person”, or the participants of a facilitated dialogue provide written consent for disclosure. Any communication relating to mandated reporting requirements for child abuse or elder abuse is not confidential.

**H. Or. Rev. Stat. § 420A.300 (2023)**

This is a declaratory law which states that facilitated dialogue and responsibility letter bank program communications are confidential and “should not be admissible in any administrative, judicial, or arbitration proceeding,” except under limited exceptions.

**I. Or. Rev. Stat. § 420A.310 (2023)**

This statute applies to juvenile, criminal, administrative, judicial, and arbitration systems.

- (1) Facilitated dialogue and responsibility letter bank program communications means “all communications by a victim, survivor, person temporarily assigned to a youth correction facility” and “made in the course of or in connection with a facilitated dialogue or responsibility letter bank program.”
- (2) Facilitated dialogue and responsibility letter bank program communications.
- (3) Communications are “confidential and may not be disclosed to any other person” and are inadmissible in future administrative, judicial or arbitration proceedings.
- (4) Communications are protected within Oregon Youth Authority programming and during or in connection with facilitated dialogues and letter banks.
- (5) There are no explicit exceptions, but the legislature reserved the power to make them later.

**J. Tex. Civ. Prac. & Rem. Code Ann. § 154.073 (2024)**

This statute applies before and after formal judicial proceedings in the civil, criminal, and judicial systems.

- (1) Victim offender mediations are defined as services in which volunteers act as mediators between “victims, guardians of victims, and close relatives of deceased victims.”
- (2) Victim-offender mediations and communications made during alternate dispute resolutions are protected.
- (3) Any record made at the procedure and at victim-offender mediations are confidential. However, oral communications or written material may be admissible if it is independent of the procedure.
- (4) These communications are protected during an alternate dispute resolution procedure.
- (5) The protections do not apply when there is a duty to report abuse, exploitation, or neglect.

**K. Utah R. Evid. 51**

This statute applies during court proceedings in the civil, criminal, and juvenile systems.

- (1) Confidential communication means a “communication that is intended to be confidential between a victim and a victim advocate for the purpose of obtaining advocacy services.”
- (2) Protects victim privilege of restorative justice statements and communications between a victim and victim advocate.
- (3) Communications are privileged and confidential.
- (4) Protections apply during all stages of a judicial proceeding and lasts until the death of the victim.
- (5) Victims may voluntarily waive confidentiality, and the court may order disclosure for good cause. Other exceptions include evidence of danger to victim’s self or others; evidence the victim has committed, plans to conceal, or plans to commit a crime; or is required to be disclosed under a duty to report child abuse.

**L. Vt. Stat. Ann. tit. 3, § 163 (2024)**

This statute applies to juvenile, criminal, civil, family, or administrative systems for the diversion of a juvenile before or after formal charges.

- (1) Diversion is defined as the “referral of an individual to a community-based restorative justice provider by a law enforcement officer or prosecutor after the referring officer or

prosecutor has determined that probable cause exists that the individual has committed a criminal offense.”

- (2) Protects all information related to offenses gathered in the course of a juvenile diversion process.
- (3) Information is confidential and cannot be released without the participant's consent.
- (4) Applies pre- or post-charge referral and continues throughout the diversion process, protecting any information related to an offense that a person discloses in preparation for, during, or as a follow-up to the provision of juvenile diversion programming, with confidentiality effective upon referral notice.
- (5) Exceptions include threats of danger, necessary to report bodily harm “any party causes another during” programming, when it is necessary to facilitate “coordination for an individual who has more than one active referral,” when there is “reasonable suspicion” of child abuse, to comply with another law, or when the court finds materials were submitted to avoid discovery.

**M. Vt. Stat. Ann. tit. 3, § 164 (2024)**

This statute applies to criminal, civil, family, or administrative systems for the diversion of an adult before or after formal charges.

- (1) Diversion is defined as the “referral of an individual to a community-based restorative justice provider by a law enforcement officer or prosecutor after the referring officer or prosecutor has determined that probable cause exists that the individual has committed a criminal offense.”
- (2) Protects all information related to offenses gathered in the course of an adult diversion process.
- (3) Information is confidential and cannot be released without the participant's consent.
- (4) Applies pre- or post-charge referral and continues throughout the diversion process, protecting any information related to an offense that a person discloses in preparation for, during, or as a follow-up to the provision of adult diversion programming, with confidentiality effective upon referral notice.
- (5) Exceptions include threats of danger, necessary to report bodily harm “any party causes another during” programming, when it is necessary to facilitate “coordination for an individual who has more than one active referral,” when there is “reasonable suspicion” of child abuse, to comply with another law, or when the court finds, materials were submitted to avoid discovery.

**N. W. Va. Code § 49-4-725 (2021)**

This statute applies in the juvenile criminal system after filing or before the disposition of a case.

- (1) A restorative justice program means a “voluntary, community-based program which utilizes evidence-based practices” that provides an “opportunity for a juvenile to accept responsibility for and participate in setting consequences to repair harm caused by the juvenile.” Programs include, but are not limited to, mediation, dialogues, or family group conferencing.
- (2) Protects self-incriminating information “obtained from the juvenile as a result of a restorative justice program.”
- (3) Information is inadmissible as evidence in subsequent proceedings.
- (4) Information is protected while juvenile engages in the program. Once the program is completed, the petition against the juvenile is dismissed.



(5) No exceptions or waivers.

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<sup>1</sup> Thalia González, *The State of Restorative Justice in American Criminal Law*, 2020 WIS. L. REV. 1147 (2020); *Restorative Justice Laws Database*, NAT’L CTR. ON RESTORATIVE JUST., <https://ncorj.org/laws/#reset-button> (last visited Aug. 7, 2025).

<sup>2</sup> González, *supra* note 1.

<sup>3</sup> *Id.* at 1163.

<sup>4</sup> *Id.* at 1189–90.

<sup>5</sup> ALICIA VIRANI ET AL., CRIM. JUST. PROGRAM, UCLA SCH. OF L., THE PROMISE AND PERILS OF RESTORATIVE JUSTICE LEGISLATION IN CALIFORNIA (2023); González, *supra* note 1.

<sup>6</sup> 735 ILL. COMP. STAT. 5/804.5(c) (2022).

<sup>7</sup> COLO. REV. STAT. § 19-2.5-102(45)(b) (2024).

<sup>8</sup> COLO. REV. STAT. § 19-2.5-402(4)(a) (2024).

<sup>9</sup> TEX. CIV. PRAC. & REM. CODE ANN. § 154.073 (2024).

<sup>10</sup> Ana M. Nascimento, Joana Andrade & Andreia de Castro Rodrigues, *The Psychological Impact of Restorative Justice Practices on Victims of Crimes—A Systematic Review*, 24 TRAUMA, VIOLENCE & ABUSE 1929 (2023); Jeff Bouffard, Maisha Cooper & Kathleen Bergseth, *The Effectiveness of Various Restorative Justice Interventions on Recidivism Outcomes Among Juvenile Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 465 (2017); Toran Hansen & Mark Umbreit, *State of Knowledge: Four Decades of Victim-Offender Mediation Research and Practice: The Evidence*, 36 CONFLICT RESOL. Q. 99, 100 (2018); Tanya Ruge, *Restorative Justice Impact on Participant Health*, 15 PUB. SAFETY CANADA 1, 1–2 (2010); ROBERT KINSCHERFF ET AL., PROMOTING POSITIVE OUTCOMES FOR JUSTICE-INVOLVED YOUTH: IMPLICATIONS FOR POLICY, SYSTEMS, AND PRACTICE, JUDGE BAKER CHILDS. CTR. 28 (2019).

<sup>11</sup> Jennifer Ullman, *Need for Confidentiality Privilege in Restorative Justice Mediations in Illinois*, UIC L. REV. (Mar. 24, 2020), <https://lawreview.law.uic.edu/news-stories/need-for-confidentiality-privilege-in-restorative-justice-mediations-in-illinois/>; ALICIA VIRANI ET AL., CRIM. JUST. PROGRAM, UCLA SCH. OF L., *supra* note 5; González, *supra* note 1; Tim Walker, *Bill Supporters Say Confidentiality Critical to Success of Restorative Justice Programs*, MINN. LEG.: MINN. H.R. (Mar. 18, 2025 4:44 PM), <https://www.house.mn.gov/sessiondaily/Story/18614>; Shannon M. Sliva, Elizabeth H. Porter-Merrill & Pete Lee, *Fulfilling the Aspirations of Restorative Justice in the Criminal System? The Case of Colorado*, 28 KAN. J.L. & PUB. POL’Y 456, 479 (2019).

<sup>12</sup> A confidentiality provision means that communications made in a protected relationship are protected from disclosure in a proceeding. *See Confidential*, BLACK’S LAW DICTIONARY (12th ed. 2024); *Communication*, BLACK’S LAW DICTIONARY (12th ed. 2024).

<sup>13</sup> An admissibility provision dictates evidence legally allowed to be presented in a proceeding. *See Admissible*, BLACK’S LAW DICTIONARY (12th ed. 2024); *Admissible Evidence*, BLACK’S LAW DICTIONARY (12th ed. 2024).

<sup>14</sup> Evidentiary privilege means that there exists a legal right to refuse to provide evidence or to protect the evidence from being used or disclosed in a proceeding. *See Privilege*, BLACK’S LAW DICTIONARY (12th ed. 2024).

<sup>15</sup> This trend is consistent with prior research. González, *supra* note 1; Shannon M. Sliva & Carolyn G. Lambert, *Restorative Justice Legislation in the American States: A Statutory Analysis of Emerging Legal Doctrine*, 14 J. POL’Y PRAC. 77, 85 (2015).

<sup>16</sup> The \* (asterisk) indicates that the legislature reserves the right to create exceptions to the statute, however, as of August 2025, no exceptions have been made. *See Or. Rev. Stat. § 420A.315* (2023).