



Clergy as Mandatory Reporters of Child Abuse and Neglect

Every State, the District of Columbia, and the U.S. territories have statutes that identify persons who are required to report child maltreatment under specific circumstances.¹ Approximately 26 States currently include members of the clergy among those professionals specifically mandated by law to report known or suspected instances of child abuse or neglect.² In approximately 18 States and Puerto

¹ For more information on mandated reporters, see Child Welfare Information Gateway's *Mandatory Reporters of Child Abuse and Neglect* at www.childwelfare.gov/systemwide/laws_policies/statutes/manda.cfm.

² The word *approximately* is used throughout the State Statutes series to stress the fact that the States frequently amend their laws. This information is current only through January 2008. At that time, the States that included clergy as mandated reporters were Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, West Virginia, and Wisconsin.

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To find statute information for a particular State, go to www.childwelfare.gov/systemwide/laws_policies/state/index.cfm

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Privileged Communications

Rico, any person who suspects child abuse or neglect is required to report.³ This inclusive language appears to include clergy but may be interpreted otherwise.

As a doctrine of some faiths, clergy must maintain the confidentiality of pastoral communications. Mandatory reporting statutes in some States specify the circumstances under which a communication is “privileged” or allowed to remain confidential. Privileged communications may be exempt from the reporting laws. The privilege of maintaining this confidentiality under State law must be provided by statute.⁴ Most States do provide the privilege, typically in rules of evidence or civil procedure.⁵ If the issue of privilege is not addressed in the reporting laws, it does not mean that privilege is not granted; it may be granted in other parts of State statutes.

This privilege, however, is not absolute. While clergy-penitent privilege is frequently recognized within the reporting laws, it is typically interpreted narrowly in the child abuse or neglect context. The circumstances under which it is allowed vary from State to State, and in some States it is denied altogether. For example, among the States that list clergy as mandated reporters, New Hampshire and West Virginia deny the clergy-penitent privilege in cases of child abuse or neglect. Four of the States that enumerate “any person” as a mandated reporter (North Carolina, Oklahoma, Rhode Island, and Texas) also deny clergy-penitent privilege in child abuse cases.

In States where neither clergy nor “any person” are enumerated as mandated reporters, it is less clear whether clergy are included as mandated reporters within other broad categories

³ The 18 States that require any person to report are Delaware, Florida, Idaho, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Utah, and Wyoming. Three of these States (Mississippi, New Hampshire, and New Mexico) also enumerate clergy as mandated reporters.

⁴ *American Jurisprudence*, 2nd Edition, vol. 81, p. 447. Rochester, NY: Lawyers Cooperative Publishing, 1992.

⁵ The issue of clergy-penitent privilege may also be addressed in case law, which this publication does not cover. For a fuller discussion of the issues, including significant case law, see Karen L. Ross, “Revealing Confidential Secrets: Will It Save Our Children?” 28 *Seton Hall Law Review* 963 (1998); or J. Michael Keel, “Law and Religion Collide Again: The Priest-Penitent Privilege in Child Abuse Reporting Cases.” 28 *Cumberland Law Review* 681 (1997-1998).

of professionals who work with children. For example, in Virginia and Washington, clergy are not enumerated as mandated reporters, but the clergy-penitent privilege is affirmed within the reporting laws.

Many States and territories include Christian Science practitioners or religious healers among professionals who are mandated to report suspected child maltreatment. In most instances, they appear to be regarded as a type of health-care provider. Only nine States (Arizona, Arkansas, Louisiana, Massachusetts, Missouri, Montana, Nevada, South Carolina, and Vermont) explicitly include Christian Science practitioners among classes of clergy required to report. The clergy-penitent privilege is also extended to those practitioners by statute.

The chart below summarizes how States have or have not addressed the issue of clergy as mandated reporters (either specifically or as part of a broad category) and/or clergy-penitent privilege (either limiting or denying the privilege) within their reporting laws.

	Privilege granted but limited to "pastoral communications"	Privilege denied in cases of suspected child abuse or neglect	Privilege not addressed in the reporting laws
Clergy enumerated as mandated reporters	Alabama, Arizona, Arkansas, California, Colorado, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, Wisconsin	New Hampshire, West Virginia	Connecticut, Mississippi
Clergy not enumerated as mandated reporters but may be included with "any person" designation	Delaware, Florida, Idaho, Kentucky, Maryland, Utah, Wyoming	North Carolina, Oklahoma, Rhode Island, Texas	Indiana, Nebraska, New Jersey, Tennessee, Puerto Rico
Neither clergy nor "any person" enumerated as mandated reporters	Virginia, Washington ⁶	Not applicable	Alaska, American Samoa, District of Columbia, Georgia, Guam, Hawaii, Iowa, Kansas, New York, Northern Mariana Islands, South Dakota, Virgin Islands

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

⁶ Clergy are not mandated reporters in Washington, but if they elect to report, their report and any testimony are provided statutory immunity from liability.