

# CODE OF CONDUCT

## INSTITUTE OF CHRIST THE KING SOVEREIGN PRIEST

### **I. Preamble**

The members, staff, and volunteers of the Institute of Christ the King Sovereign Priest (the “Institute”) must exemplify Christian virtues and appropriate conduct. This *Code of Conduct* provides a set of standards for conduct for Institute members, staff, and volunteers when they are fulfilling their duties in service to the Institute. The Institute condemns all forms of misconduct – sexual, physical, or emotional. This *Code of Conduct* intends to establish a balance between encouraging positive and appropriate interactions and hindering inappropriate and/or potentially harmful or unsafe interactions. The goal of this Code of Conduct is to create an environment where there is no opportunity for sexual misconduct or other harmful acts.

### **II. Responsibility**

The public and private conduct of the Institute’s members, staff, and volunteers can inspire and motivate, but when the actions are inappropriate it can also scandalize and undermine the people’s faith. The Institute’s members, staff, and volunteers must know that God’s goodness and grace supports them in their ministry, and they must also be aware of the responsibilities that come with the trust offered by those seeking advice, guidance and instruction.

Responsibility for adherence to the *Code of Conduct* is not optional and rests with the individual. All members, staff, and adult volunteers are expected to follow these guidelines, and those who disregard this *Code of Conduct* or fail to act consistently with the *Code of Conduct* will be subject to remedial action by the Institute. Violations of these guidelines are a serious matter and will be investigated and resolved in accordance with the Institute’s policy. Corrective action may take various forms—from a verbal reproach to removal from the ministry based on the specific nature and circumstances of the offense and the extent of the harm or potential harm.

### **III. Definitions**

#### **3.1. Adults; Adult Volunteers**

Adults are those who are age 18 or older. An Adult Volunteer is an adult who serves the Institute in an uncompensated role under the supervision of the Local Superior, and who is required by the local diocese to comply with its safe environment policies and procedures.

### **3.2. Members**

**3.2.1.** Members are: incardinated priests (canons) and deacons of the Institute who reside in the U.S.; affiliated priests who may be serving for a time or residing in one of the Institute’s houses in the U.S.; oblates (brothers) of the Institute who reside in the U.S.; seminarians residing for a time in one of the Institute’s houses in the U.S.; and candidates, who are young men discerning a vocation and living in one of the Institute’s houses in the U.S. for the purpose of experiencing community life.

**3.2.2.** If, at some point in the future, the Sisters of the Institute (Adorers of the Royal Heart of Jesus) were to establish a convent in the United States, the Sisters residing in the U.S. would also be classified as “members” of the Institute and would be subject to this Code of Conduct.

### **3.3. Minor**

“Minor” is a person younger than 18 years of age.

### **3.4. Sexual Misconduct**

Sexual misconduct includes:

**3.4.1.** “Sexual intimacy,” meaning physical sexual contact as well as conversation, communication, or body language of a sexual nature or which could reasonably be perceived as being of a sexual nature. Consensual and nonconsensual sexual intimacy is considered sexual misconduct; however, sexual intimacy between married individuals is not sexual misconduct.

**3.4.2.** Sexual advances or sexual touching.

**3.4.3.** Sexual comments or jokes, including sexual communications on Social Media.

**3.4.4.** Displaying or viewing of pornographic materials.

**3.4.5.** Nudity around others.

**3.4.6.** Laying down on a bed, sofa, or the floor with a minor.

**3.4.7.** Dating a minor.

**3.4.8.** Taking photographs of others who are dressing, showering, or in any compromising circumstance.

**3.4.9.** Exploitation of another for sexual purposes by using one’s power or position of authority to gain sexual favors.

### **3.5. Social Media**

**3.5.1.** Social media is any form of electronic communication through which a user creates, utilizes, accesses, retrieves, and/or visits online communities or systems to share information, ideas, personal messages, and/or other content.

**3.5.2.** Social media includes, but is not limited to, all of the following: email, texting, chat rooms, instant messaging, social networks, video messaging, on-line message boards, gaming systems, mobile telephones, on-line voice or video communications, etc.

### **3.6. Spiritual Directors**

The role of spiritual director may be exercised only by priest members.

### **3.7. Superior**

**3.7.1.** A “superior” is a member of the Institute who, according to the norms of Canon Law, exercises authority over other members of the community. The superior of each house is called the “prior.” The “prior general” is the worldwide superior.

**3.7.2.** The provincial superior exercises authority over the U.S. district of the Institute, called the “province.”

### **3.8. Vulnerable Person**

A vulnerable person is a person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits his or her ability to understand or to want or otherwise resist an offense.

## **IV. General Standards of Appropriate Behavior**

These General Standards of Appropriate Behavior apply to services provided to all clients. Supplemental standards apply to Institute activities involving minors (Section V) and to the Institute’s Spiritual Directors (Section VI).

### **4.1. Background Checks and Training Required**

All of the Institute’s members, staff and adult volunteers shall:

- 4.1.1.** undergo a background check as required by the local diocese;
- 4.1.2.** participate in the initial and ongoing Safe Environment training programs as required by the local diocese;
- 4.1.3.** annually read this Code of Conduct, including all updates; and annually sign an acknowledgment of adherence to this Code of Conduct.

### **4.2. No Sexual Misconduct**

- 4.2.1.** Members are committed to a celibate lifestyle and are called to be an example of celibate chastity in all relationships at all times. Under no circumstances shall members engage in sexual misconduct.
- 4.2.2.** Staff and adult volunteers of the Institute are called to be an example of chastity in all relationships at all times. Under no circumstances may staff or adult volunteers engage in sexual misconduct.
- 4.2.3.** If at any time, a minor or vulnerable adult indicates an interest in establishing or pursuing an intimate relationship with a member, staff, or adult volunteer, the member, staff or adult volunteer must immediately notify his superior, with the end goal of working together to decide an appropriate course of action to interrupt this thinking.

### **4.3. Limit Physical Contact**

- 4.3.1. Physical contact with minors and vulnerable adults can be misconstrued and should only occur in public. Any such physical contact must be completely nonsexual. Physical contact should never occur in private.
- 4.3.2. Except in emergencies, physical contact with minors and vulnerable adults should be initiated by minor or vulnerable adult. Members, staff, and adult volunteers should not generally initiate physical contact other than an occasional congratulatory pat on the upper back, hand shake, “high five”, etc.

### **4.4. No Gifts or Loans**

- 4.4.1. Members, staff, and adult volunteers shall report the receipt of a gifts in excess of \$25 to the superior, except for modest group appreciation gifts where each individual contributes a small amount. Gifts in excess of \$500 shall not be accepted without the written approval of the superior.
- 4.4.2. Members, staff, and adult volunteers may not accept a bequest in excess of \$500 , nor receive any loans from individuals they have served in the course of their work with the Institute, without the written approval of the superior. .

### **4.5. No Drugs; No Excessive Alcohol Use**

- 4.5.1. Members, staff, and volunteers shall not possess or use drugs or medications except for over the counter medications and medications used in accordance with their prescriptions. Members in violation of this policy shall be subject to appropriate canonical or ecclesial discipline as determined by the provincial superior. Staff and volunteers violating this policy may be terminated.
- 4.5.2. Members, staff, and adult volunteers may use alcohol in moderation at Institute events, except for at activities offered specifically for minors, and unless otherwise prohibited by the superior or local law.

### **4.6. Respect for Personal Living Spaces**

Institute activities that include overnight stays must meet the following standards:

- 4.6.1. Men and women must have separate sleeping, bathing, and bathroom facilities.
- 4.6.2. Members, staff, and adult volunteers may not share bedrooms with other Members, staff, adult volunteers, and vulnerable adults. On trips or retreats away from permanent Institute locations, if separate accommodations cannot be provided due to group size or limited availability, then an exception may be made to this policy if (a) the provincial superior approves the accommodations in advance; and (b) the alternative accommodations do not mix males and females.

#### 4.7. Use of Social Media

- 4.7.1. The Institute is the sole owner of its social media communications. No user has any ownership interest or expectation of privacy in such communications and the Institute retains the right, in its sole discretion, to review all communications and activity on its electronic devices, without prior notice to any user.
- 4.7.2. With the exception of personal telephone and email accounts, members may not have a purely personal account for any form of social media. Personal email accounts may not be used for Institute matters.
- 4.7.3. Except in an emergency, all social media communications related to Institute activities should take place between the hours of 7:00 a.m. and 9:00 p.m., except that emails may be sent at night, provided that no immediate response is requested or expected.
- 4.7.4. Any communication using the Institute's social media must be consistent with Catholic moral teaching.
- 4.7.5. Individual apostolates of the Institute may have a social media account, with the permission of the provincial superior. The following guidelines shall apply to the Institute's social media presence:
- a. Only official email addresses, office phone numbers, and job titles may be used with the Institute's social media accounts. These accounts must be registered in the name of the Institute, and labeled to reflect their official nature. Settings should protect the privacy of all to the fullest extent possible.
  - b. Passwords and administrative authority for such pages should be limited to the superior or his designee.
  - c. Superiors and/or their designees should monitor sponsored sites. Inappropriate content should be promptly removed/deleted.
  - d. If, at any time, members, staff, or volunteers receive an inappropriate personal communication in connection with his service to the Institute, the individual should maintain an electronic copy, print a hard copy, and notify the superior immediately.

#### 4.8. Audiovisual Media Policy

- 4.8.1. As an integral part of its mission, the Institute may take or acquire photographs, videos, or voice recordings ("Audiovisual Media") that communicate news about the implementation of its mission and vision. This Audiovisual Media is usually of individuals at public events, such as Masses, Baptisms, Confirmations, performances, and community outreach projects. This Audiovisual Media may be routinely published in printed and digital publications and training materials, and/or on its website or other social media platforms. Before participating in the Institute's *private* events, such as events requiring advance registration or payment of a fee, individuals will be asked to provide written permission for the use of their images. The Institute is committed to the responsible use of Audiovisual Media.
- 4.8.2. The Institute will not knowingly publish Audiovisual Media that could be an embarrassment, cause scandal, or bring discredit to the Institute or any individual.

- 4.8.3. Neither full names nor contact information will be published alongside any Audiovisual Media without the individual's consent.
- 4.8.4. No Audiovisual Media of an individual will be used in any fundraising appeal without that individual's consent.
- 4.8.5. Attribution credit will be given when required by applicable copyright laws.
- 4.8.6. As a courtesy, and to the extent possible, the Institute will decline to use Audiovisual Media, or will promptly remove it, upon request. In some circumstances, it may be impossible to accommodate such a request, as for example when the Audiovisual Media is of a large group at a public event.
- 4.8.7. This Audiovisual Media Policy will be published for the public on the Institute's website, in its newsletters, and outside of its sanctuaries so that those who prefer for their images or voice not to be used in accordance with Institute policy may take action to avoid being recorded.

#### **4.9. Be Alert for Special Needs**

Many people, especially vulnerable persons, cannot hear, see, run, play, listen and/or actively engage as well as others. Actively assess the individuals to whom you minister. Strive to keep them safe from physical and emotional harm and actively attend to their needs. Seek help from your superior if an individual you serve needs extra help or accommodation. If because of age or other infirmity, you perceive that an individual might misconstrue your actions and intentions, make sure that your interactions are in public and in the company of other witnesses.

#### **4.10. Monitoring Behavior**

Members, staff, and adult volunteers shall learn the warning signs of potentially abusive relationships and shall monitor the behavior of other members, staff, and adult volunteers with whom they have contact. Members, staff, and adult volunteers shall maintain a healthy suspicion of all adults involved in Institute activities and shall watch for grooming behaviors identified in diocesan and Institute safe environment training, such as: showing favoritism, giving gifts, arranging unsupervised or unscheduled time alone with a minor, or engaging in frequent physical contact with a minor. Any member, staff, or adult volunteer who perceives that another adult is engaging in grooming behaviors, sexual misconduct, or other inappropriate or harmful behavior shall immediately report this information to the superior.

### **V. Standards of Conduct With Minors**

#### **5.1. Two Adults at All Times**

- 5.1.1. No fewer than two members, staff, or adult volunteers must be present at all Institute activities involving minors (including transportation to and from Institute activities), except in the case of an Institute priest offering spiritual direction.

5.1.2. Furthermore, the superior should establish specific age and program supervision ratios for each activity involving minors. Ratios should be determined separately for each activity based on: (a) age and development of the minors, (b) the level of risk of isolation in the activity, and (c) location of the activity and ability for others to casually observe an adult's interaction with a minor.

5.1.3. Under no circumstances may a minor be placed in a supervisory role over other minors. It is the responsibility of adults to properly supervise the minors in their care.

## **5.2. No Drugs and Alcohol**

Members, staff, and adult volunteers shall not use alcohol when working with minors (aside from the use of wine in the Holy Sacrifice of the Mass). Members in violation of this policy shall be subject to appropriate canonical or ecclesial discipline as determined by the provincial superior. Staff and volunteers violating this policy may be terminated.

## **5.3. Respect for Personal Living Spaces – Supplemental Provisions Involving Minors**

5.3.1. Members, staff, and adult volunteers should not allow minors to visit or stay overnight in the member's, staff's or adult volunteer's private living quarters, accommodations, or residence.

5.3.2. Members, staff, and adult volunteers may not visit a minor in his residence unless another adult is present.

5.3.3. For Institute activities that include overnight stays with minors, members, staff, and adult volunteers may not share bedrooms with minors, including but not limited to, bedrooms in any Church-owned facility, private residence, hotel room, or any other place. Where separate accommodations cannot be provided due to group size or limited availability, then an exception may be made to this policy if the following three criteria are met: (a) the provincial superior approves the accommodations in advance; (b) the alternative accommodations do not mix males and females; and (c) the rule pertaining to "Two Adults at All Times," above, remains in force.

## **5.4. Use of Social Media – Supplemental Provisions Involving Minors**

5.4.1. No member, staff member, or adult volunteer shall collect email addresses, phone numbers or any other contact or social media information from minors without written permission from parents or guardians. Parents or guardians must designate, in writing, which form(s) of communication with minors may be used and must provide the contact information.

5.4.2. Members, staff, and adult volunteers will normally use office land lines and official Institute email accounts to conduct conversations with minors. Members, staff, and adult volunteers who wish to conduct email or online conversations with minors age 13 or below must do so only through the social media (see definition above) accounts of the minor's parent or guardian. Members, staff, and adult volunteers will not share personal social media accounts with minors, except for cell phone numbers when used in accordance with the texting policy below.

5.4.3. Members, staff, and adult volunteers who communicate with minors between the ages of 14 and 17 by means of text or other electronic messaging service must copy the minor's parent or guardian on all such communications.

5.4.4. Members, staff, and adult volunteers may not add any minors to personal email lists. When copying minors on approved communications, blind copy options must be used so that other recipients cannot gain access to the minor's contact information.

5.4.5. Any staff or adult volunteer who receives a "friend request" on his personal social media account from a minor affiliated with the Institute should reject the request, unless specific permission is granted by the superior and the individual's parent or guardian.

### **5.5. Audiovisual Media Policy- Supplemental Provision Involving Minors**

5.5.1. Parents and/or guardians of minors will be given a copy of the Institute's Audiovisual Media Policy.

5.5.2. By permitting minor to participate in the Institute's *public* events, such as Masses, Baptisms, Confirmations, performances, and community outreach projects, parents and guardians will be deemed to have consented to the Institute's policy, which allows Audiovisual Media of minors to be used as described in the policy.

5.5.3. Before participating in the Institute's *private* events, such as events requiring advance registration or payment of a fee, parents and guardians will be asked to provide written permission for the use of a minor's Audiovisual Media at the private event.

## **VI. Pastoral Standards for Spiritual Directors**

### **6.1. General Standards of Conduct for Spiritual Directors**

Spiritual Directors must respect the rights and advance the welfare of each person. The General Standards of Appropriate Behavior and the Standards of Conduct With Minors (Sections IV and V, above) apply to Spiritual Directors in the context of spiritual direction, except that spiritual direction may involve, when appropriate, one-on-one communications between a spiritual director and a minor.

### **6.2. Time and Location of Spiritual Direction**

6.2.1. No sessions may be conducted in private living quarters, including any bedroom at any camp, retreat facility, hotel, or motel.

6.2.2. Sessions should not be held at places or times that could cause confusion about the nature of the relationship for the person receiving spiritual direction or for others in the environment.



**6.2.3.** Spiritual direction may only take place in locations which permit random observation by others because such a setting provides assurance that the interactions are appropriate to the relationship without compromising the privacy of the session. For example, spiritual direction should take place only in an office or other easily accessible place with an unobstructed window in the door or wall allowing visibility to those outside the meeting space, or in an office or other easily accessible place with the door left partially open such that the member and counselee can be seen by others. Spiritual Directors should never meet alone with a counselee in a location or at a time when no one else is in the facility to observe interactions. Spiritual Directors should always promote an atmosphere and attitude of openness and transparency. If an individual comes for an unscheduled appointment or arrives at a time when there are no other adults in the facility, the Spiritual Director should either reschedule the appointment or require another adult to stay in the facility during the appointment.

**6.2.4.** To the extent that an unforeseen circumstance arises wherein a Spiritual Director cannot comply precisely with this Code of Conduct, he shall immediately advise the counselee and the superior of the circumstances and the manner in which the Spiritual Director adapted the policies to the unforeseen circumstance.

### **6.3. Precautions in Providing Spiritual Direction to Minors**

**6.3.1.** Spiritual Directors shall inform parents or guardians in writing when they are beginning a course of spiritual direction with a minor. This written notice shall include a statement of the Institute's policies and procedures with respect to minors, and require written acknowledgement of receipt by the parent or guardian.

**6.3.2.** Spiritual Directors should inform their superiors and/or other staff on the premises of one-on-one meetings with minors, and invite random visual observation or status checks—even if the meeting is not on the Institute premises.

## **VII. Reporting Violations or Potential Violations of the Code of Conduct**

Members, staff and volunteers are required to report violations, or concerns about potential violations, of this Code of Conduct. With respect to priest members, this requirement is subject to the seal of the confessional and the obligation of confidentiality as to spiritual direction protected by the Forum Internum. To the extent allowed by law, all reporting will be kept in strict confidence, so as to protect the rights of the one who reports the concern, the potential victim, and the potential accused.

### **7.1. Reporting Violations or Potential Violations Internally**

**7.1.1.** Members, staff, and adult volunteers must report to the superior behaviors that raise concerns or violate this Code of Conduct. If the incident involves the superior, a report must be made to the provincial superior.

- 7.1.2. The superior may request that the concern be documented. The member, staff, or adult volunteer must follow the documentation processes requested by the superior.
- 7.1.3. Any member, staff, or adult volunteer should refrain from discussing the matter with others and keep the matter confidential to the extent possible, out of respect for the dignity of the accused and the potential victim.
- 7.1.4. Upon receipt of any report, the superior (or, when applicable, the provincial superior) is charged with the responsibility of determining the appropriate course of any investigation and resulting action. The superior shall make a written documentation of any report that he receives.

## **7.2. Reporting Violations to Civil Authorities**

- 7.2.1. Members, staff, and adult volunteers who become aware of illegal actions by members, staff, or volunteers, must notify the proper civil authorities immediately, and must also notify the superior immediately. With respect to priest members, this requirement is subject to the seal of the confessional and the obligation of confidentiality as to spiritual direction protected by the Forum Internum.
- 7.2.2. Allegations of sexual misconduct will be taken seriously and reported to civil authorities as required by law. Allegations of sexual misconduct will be reported to the Provincial Superior of the Institute in the U.S. in all circumstances. Institute procedures will be followed to protect the rights of all involved.
- 7.2.3. Members, staff, and adult volunteers should review and learn the contents of the child abuse regulations and reporting requirements for the state in which they reside and/or participate in Institute activities, and, should follow those mandates. See Appendix for a list of child abuse reporting requirements.

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**APPENDIX**  
**MANDATORY CHILD ABUSE REPORTING LAWS**  
**AS OF December, 2021**  
(Massachusetts Laws Added Fall, 2023)

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## ARIZONA

### Summary of Provisions

Arizona requires any person who reasonably believes that a minor is or has been a victim of abuse or neglect to make a report to a peace officer immediately upon learning of the abuse or neglect. However, priests are exempted from mandatory child abuse reporting with respect to confidential communications or confessions received in the priest's role as a member of the clergy, if the priest determines that it is reasonable and necessary within the concepts of his religion to withhold reporting such confidential communications. Note that this exemption applies only to confidential communications or confessions, not to personal observations the priest might otherwise make of the minor.

This provision can be found at Arizona Revised Statutes §13-3620. A highlighted copy of the text of the statute follows:

### Excerpts From the Law

#### Arizona Revised Statutes §13-3620

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer, to the department of child safety or to a tribal law enforcement or social services agency for any Indian minor who resides on an Indian reservation, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, a Christian Science practitioner or a priest who has received a confidential communication or a confession in that person's role as a member of the clergy, as a Christian Science practitioner or as a priest in the course of the discipline enjoined by the church to which the member of the clergy, the Christian Science practitioner or the priest belongs may withhold reporting of the communication or confession if the member of the clergy, the Christian Science practitioner or the priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, the Christian Science practitioner or the priest may otherwise make of the minor.



## CALIFORNIA

### Summary of Provisions

California requires mandatory reporters to report known or suspected child abuse or neglect to a police or sheriff's department or the county welfare department. The initial report should be made by telephone as soon as possible, and a written report should be made within 36 hours.

California identifies a number of mandatory reporters of suspected child abuse, including: (1) administrators of day camps; (2) administrators and employees of youth centers, youth recreation programs, and youth organizations; (3) administrators, board members, and employees of organizations whose duties require direct contact and supervision of children; (4) clergy members; and (5) custodians of records for clergy members. Volunteers for organizations whose duties require direct contact with and supervision of children are NOT mandated reporters.

Priests are exempted from mandatory reporting to the extent that they acquire knowledge or a reasonable suspicion of child abuse or neglect during a "penitential communication," which is a communication, intended to be in confidence, made to a clergy member who is authorized to hear such communications and who, under the discipline, tenets, customs, or practices of his church, has a duty to keep those communications secret. Priests who acquire knowledge or a reasonable suspicion of child abuse or neglect under other circumstances are required to report.

California's statutory provisions concerning child abuse reporting can be found at California Penal Code §§11164-11174.3. Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### California Penal Code §11165.6.

As used in this article, the term "child abuse or neglect" includes physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

#### California Penal Code § 11165.7.

(a) As used in this article, "mandated reporter" is defined as any of the following:

(1) A teacher.

(2) An instructional aide.

...

(6) An administrator of a public or private day camp.

(7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

(8) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.

...

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

...

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

...

(g) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

California Penal Code §11165.9.

Reports of suspected child abuse or neglect shall be made by mandated reporters, or in the case of reports pursuant to Section 11166.05, may be made, to any police department or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. Any of those agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person unless otherwise authorized pursuant to this section, and shall maintain a record of all reports received.

California Penal Code §11166.

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

...

(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

...

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

...

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. An internal policy shall not direct an employee to allow his or her supervisor to file or process a mandated report under any circumstances.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

## CONNECTICUT

### Summary of Provisions

#### 1. Child Abuse Reporting

Connecticut requires mandatory reporters to report known or suspected child abuse or neglect by telephone or in person to the Commissioner of Children and Families or a law enforcement agency. The initial report should be made within 12 hours of when the mandatory reporter obtains information concerning child abuse, and the mandatory reporter must file a written report within 48 hours of obtaining information of child abuse.

Connecticut identifies a number of mandatory reporters of suspected child abuse, including: (1) members of the clergy; (2) adults employed as coaches or directors of youth athletics; (3) paid youth camp directors or assistant directors. **Priests are NOT exempted from mandatory reporting of known or suspected child abuse or neglect.** A mandatory reporter who fails to make a timely report of child abuse or neglect commits a crime. Individuals who are not mandatory reporters may report known or suspected child abuse.

#### 2. Testamentary Privilege

Although Connecticut's child abuse law does not contain an exemption for priests who learn about child abuse or neglect by means of confidential communications within the confessional or the internal forum of spiritual direction, Connecticut does recognize a priest-penitent privilege by means of which a priest can refuse to disclose confidential communications made to him in his professional capacity in any civil or criminal case or proceedings preliminary thereto, or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege.

This privilege applies only to confidential communications involving religious or spiritual advice, aid, or comfort. The party asserting the privilege must establish that: (1) there was a communication; (2) the communication was confidential; (3) it was made to a member of the clergy within the meaning of the statute; (4) the communication was made to the clergy member in his or her professional capacity; (5) the disclosure was sought as part of a criminal or civil case; and (6) the defendant did not waive the privilege.

Connecticut's statutory provisions concerning child abuse reporting can be found at Connecticut General Statutes §17a-101 et seq. and Connecticut General Statutes §46b-120(5). Connecticut's priest-penitent privilege statute can be found at Connecticut General Statutes § 52-146b. Highlighted excerpts from these statutes and from relevant case law follow:

#### Excerpts From the Law

##### Connecticut General Statutes §46b-120(5)

(5) A child may be found "abused" who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment;

##### Connecticut General Statutes § 17a-101

§ 17a-101. Protection of children from abuse. Mandated reporters. Educational and training programs. Model mandated reporting policy

...

(b) **The following persons shall be mandated reporters:** (1) Any physician or surgeon licensed under the provisions of chapter 370, (2) any resident physician or intern in any hospital in this state, whether or not so licensed, (3) any registered nurse, (4) any licensed practical nurse, (5) any medical examiner, (6) any dentist, (7) any dental hygienist, (8) any psychologist, (9) any school employee, as defined in section 53a-65, (10) any social worker, (11) any person who holds or is issued a coaching permit by the State Board of Education, is a coach of intramural or interscholastic athletics and is eighteen years of age or older, (12) **any individual who is employed as a coach or director of youth athletics and is eighteen years of age or older,** (13) **any individual who is employed as a coach or director of a private youth sports organization, league or team and is eighteen years of age or older,** (14) any paid administrator, faculty, staff, athletic director, athletic coach or athletic trainer employed by a public or private institution of higher education who is eighteen years of age or older, excluding student employees, (15) any police officer, (16) any juvenile or adult probation officer, (17) any juvenile or adult parole officer, **(18) any member of the clergy,** (19) any pharmacist, (20) any physical therapist, (21) any optometrist, (22) any chiropractor, (23) any podiatrist, (24) any mental health professional, (25) any physician assistant, (26) any person who is a licensed or certified emergency medical services provider, (27) any person who is a licensed or certified alcohol and drug counselor, (28) any person who is a licensed marital and family therapist, (29) any person who is a sexual assault counselor or a domestic violence counselor, as defined in section 52-146k, (30) any person who is a licensed professional counselor, (31) any person who is a licensed foster parent, (32) any person paid to care for a child in any public or private facility, child care center, group child care home or family child care home licensed by the state, (33) any employee of the Department of Children and Families, (34) any employee of the Department of Public Health, (35) any employee of the Office of Early Childhood who is responsible for the licensing of child care centers, group child care homes, family child care homes or youth camps, (36) **any paid youth camp director or assistant director,** (37) the Child Advocate and any employee of the Office of the Child Advocate, (38) any person who is a licensed behavior analyst, and (39) any family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department.

...

Connecticut General Statutes § 17a-101a

Sec. 17a-101a. Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney.

(a)(1) **Any mandated reporter,** as described in section 17a-101, **who in the ordinary course of such person's employment or profession has reasonable cause to suspect or believe that any child under the age of eighteen years (A) has been abused or neglected,** as described in section 46b-120, (B) **has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (C) is placed at imminent risk of serious harm,** or (2) any school employee, as defined in section 53a-65, who in the ordinary course of such person's employment or profession has reasonable cause to suspect or believe that any person who is being educated by the technical high school system or a local or regional board of education,

other than as part of an adult education program, is a victim under the provisions of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, and the perpetrator is a school employee shall report or cause a report to be made in accordance with the provisions of sections 17a-101b to 17a-101d, inclusive.

(b) (1) Any person required to report under the provisions of this section who fails to make such report or fails to make such report within the time period prescribed in sections 17a-101b to 17a-101d, inclusive, and section 17a-103 shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class E felony if (A) such violation is a subsequent violation, (B) such violation was wilful or intentional or due to gross negligence, or (C) such person had actual knowledge that (i) a child was abused or neglected, as described in section 46b-120, or (ii) a person was a victim described in subdivision (2) of subsection (a) of this section.

(2) Any person who intentionally and unreasonably interferes with or prevents the making of a report pursuant to this section, or attempts or conspires to do so, shall be guilty of a class D felony. The provisions of this subdivision shall not apply to any child under the age of eighteen years or any person who is being educated by the technical high school system or a local or regional board of education, other than as part of an adult education program.

(3) Any person found guilty under the provisions of this subsection shall be required to participate in an educational and training program. The program may be provided by one or more private organizations approved by the commissioner, provided the entire cost of the program shall be paid from fees charged to the participants, the amount of which shall be subject to the approval of the commissioner.

(c) The Commissioner of Children and Families, or the commissioner's designee, shall promptly notify the Chief State's Attorney when there is reason to believe that any such person has failed to make a report in accordance with this section.

(d) For purposes of this section and section 17a-101b, a mandated reporter's suspicion or belief may be based on factors including, but not limited to, observations, allegations, facts or statements by a child, victim, as described in subdivision (2) of subsection (a) of this section, or third party. Such suspicion or belief does not require certainty or probable cause.

#### Connecticut General Statutes § 17a-101b

Sec. 17a-101b. Oral report by mandated reporter. Notification of law enforcement agency when allegation of sexual abuse or serious physical abuse. Notification of person in charge of institution, facility or school when staff member suspected of abuse or neglect.

(a) An oral report shall be made by a mandated reporter as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious

harm, by telephone or in person to the Commissioner of Children and Families or a law enforcement agency. If a law enforcement agency receives an oral report, it shall immediately notify the Commissioner of Children and Families.

(b) If the commissioner or the commissioner's designee suspects or knows that such person has knowingly made a false report, the identity of such person shall be disclosed to the appropriate law enforcement agency and to the perpetrator of the alleged abuse.

(c) If the Commissioner of Children and Families, or the commissioner's designee, receives a report alleging sexual abuse or serious physical abuse, including, but not limited to, a report that: (1) A child has died; (2) a child has been sexually assaulted; (3) a child has suffered brain damage or loss or serious impairment of a bodily function or organ; (4) a child has been sexually exploited; or (5) a child has suffered serious nonaccidental physical injury, the commissioner shall, within twelve hours of receipt of such report, notify the appropriate law enforcement agency.

(d) Whenever a mandated reporter, as described in section 17a-101, has reasonable cause to suspect or believe that any child has been abused or neglected by a member of the staff of a public or private institution or facility that provides care for such child or a public or private school, the mandated reporter shall report as required in subsection (a) of this section. The Commissioner of Children and Families or the commissioner's designee shall notify the principal, headmaster, executive director or other person in charge of such institution, facility or school, or the person's designee, unless such person is the alleged perpetrator of the abuse or neglect of such child. In the case of a public school, the commissioner shall also notify the person's employing superintendent. Such person in charge, or such person's designee, shall then immediately notify the child's parent or other person responsible for the child's care that a report has been made.

(e) For purposes of this section, "child" includes any victim described in subdivision (2) of subsection (a) of section 17a-101a.

Connecticut General Statutes § 17a-101c

Sec. 17a-101c. Written report by mandated reporter.

Not later than forty-eight hours after making an oral report, a mandated reporter shall submit a written report to the Commissioner of Children and Families or the commissioner's designee. When a mandated reporter is a member of the staff of a public or private institution or facility that provides care for such child or public or private school the reporter shall also submit a copy of the written report to the person in charge of such institution, school or facility or the person's designee. In the case of a report concerning a school employee holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144a to 10-146b, inclusive, and 10-149, a copy of the written report shall also be sent by the Commissioner of Children and Families or the commissioner's designee to the



Commissioner of Education or the commissioner's designee. In the case of an employee of a facility or institution that provides care for a child which is licensed by the state, a copy of the written report shall also be sent by the Commissioner of Children and Families to the executive head of the state licensing agency.

Connecticut General Statutes § 17a-101d

Sec. 17a-101d. Contents of oral and written reports.

All oral and written reports required in sections 17a-101a to 17a-101c, inclusive, and section 17a-103, shall contain, if known: (1) The names and addresses of the child and his or her parents or other person responsible for his or her care; (2) the age of the child; (3) the gender of the child; (4) the nature and extent of the child's injury or injuries, maltreatment or neglect; (5) the approximate date and time the injury or injuries, maltreatment or neglect occurred; (6) information concerning any previous injury or injuries to, or maltreatment or neglect of, the child or his or her siblings; (7) the circumstances in which the injury or injuries, maltreatment or neglect came to be known to the reporter; (8) the name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect; (9) the reasons such person or persons are suspected of causing such injury or injuries, maltreatment or neglect; (10) any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child; and (11) whatever action, if any, was taken to treat, provide shelter or otherwise assist the child. For purposes of this section, "child" includes any victim described in subdivision (2) of subsection (a) of section 17a-101a.

...

Connecticut General Statutes § 17a-101p

Sec. 17a-101p. Reports by persons not designated as mandated reporters. Notice to Commissioner of Education.

When the Commissioner of Children and Families receives a report from a person not designated as a mandated reporter pursuant to section 17a-101 that such person has reasonable cause to suspect or believe that any child under the age of eighteen years (1) has been abused or neglected, as defined in section 46b-120, (2) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (3) is placed at imminent risk of serious harm by a school employee, as defined in section 53a-65, holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144o to 10-146b, inclusive, and section 10-149, a copy of such report shall be sent by the Commissioner of Children and Families to the Commissioner of Education.

Priest-Penitent Privilege: Connecticut General Statutes § 52-146b

§ 52-146b. Privileged communications made to clergymen

A clergyman, priest, minister, rabbi or practitioner of any religious denomination accredited by the religious body to which he belongs who is settled in the work of the ministry shall not disclose confidential communications made to him in his professional capacity in any civil or criminal case or proceedings preliminary thereto, or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege herein provided.

*Mirlis v. Greer*, 249 F. Supp. 3d 611, 615–16 (D. Conn. 2017):

“The clergy-penitent privilege did not exist at common law, and is a creature of statute.” *State v. Mark R.*, 300 Conn. 590, 597, 17 A.3d 1 (2011). It is codified at Conn. Gen. Stat. § 52–146b, which provides:

A clergyman, priest, minister, rabbi or practitioner of any religious denomination accredited by the religious body to which he belongs who is settled in the work of the ministry shall not disclose confidential communications made to him in his professional capacity in any civil or criminal case or proceedings preliminary thereto, or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege herein provided.

\*616 The privilege applies “only to communications involving religious or spiritual advice, aid or comfort.” *Thopsey v. Bridgeport Roman Catholic Diocesan Corp., No. NNHCV106009360S*, 2012 WL 695624, at \*9–10 (Conn. Super. Ct. Feb. 15, 2012).

For the privilege to apply, a penitent must demonstrate:

(1) there was a communication; (2) the communication was confidential; (3) it was made to a member of the clergy within the meaning of the statute; (4) the communication was made to the clergy member in his or her professional capacity; (5) the disclosure was sought as part of a criminal or civil case; and (6) the defendant did not waive the privilege.

*State v. Mark R.*, 300 Conn. 590, 597–98, 17 A.3d 1 (2011). The party asserting the privilege bears the burden of establishing each element of the privilege. *Id.* at 598, 17 A.3d 1.

## ILLINOIS

### Summary of the Provisions

Illinois requires mandatory reporters to report known or suspected child abuse or neglect to the Department of Children and Family Services immediately. Failure to report constitutes a misdemeanor or a felony, depending upon the circumstances.

Illinois identifies a number of mandatory reporters of suspected child abuse, including: (1) any recreational or athletic program or facility personnel; and (2) any member of the clergy.

Although Illinois abrogates other privileges in connection with the requirement to report child abuse, its child abuse reporting statute expressly permits a member of the clergy to claim a privilege against disclosing any confession or admission made to him in his professional character or as a spiritual advisor in the course of the discipline enjoined by the rules or practices of his religion. A priest may not be compelled to divulge any information he obtained as a confessor or spiritual advisor.

Illinois' statutory provisions concerning child abuse reporting can be found at 325 Illinois Compiled Statutes 5/1 et seq. Illinois' statutory clergy privilege can be found at Illinois Code of Civil Procedure §8-803. Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### 325 Illinois Compiled Statutes 5/4

Sec. 4. Persons required to report; privileged communications; transmitting false report.

Any ... recreational or athletic program or facility personnel, ... having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of "abused child" in Section 3 of this Act shall immediately report or cause a report to be made to the Department.

...

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act or constitute grounds for failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation.

The reporting requirements of this Act shall not apply to the contents of a privileged communication between an attorney and his or her client or to confidential information within the meaning of Rule 1.6 of the Illinois Rules of Professional Conduct relating to the legal representation of an individual client.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

...

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. On and after January 1, 2019, the statement shall also include information about available mandated reporter training provided by the Department. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

...

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

...

For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

325 Illinois Compiled Statutes 5/7

#### Sec. 7. Time and manner of making reports.

All reports of suspected child abuse or neglect made under this Act shall be made immediately by telephone to the central register established under Section 7.7 on the single, State-wide, toll-free telephone number established in Section 7.6, or in person or by telephone through the nearest Department office. The Department shall, in cooperation with school officials, distribute appropriate materials in school buildings listing the toll-free telephone number established in Section 7.6, including methods of

making a report under this Act. The Department may, in cooperation with appropriate members of the clergy, distribute appropriate materials in churches, synagogues, temples, mosques, or other religious buildings listing the toll-free telephone number established in Section 7.6, including methods of making a report under this Act.

...

The report required by this Act shall include, if known, the name and address of the child and his parents or other persons having his custody; the child's age; the nature of the child's condition including any evidence of previous injuries or disabilities; and any other information that the person filing the report believes might be helpful in establishing the cause of such abuse or neglect and the identity of the person believed to have caused such abuse or neglect. Reports made to the central register through the State-wide, toll-free telephone number shall be immediately transmitted by the Department to the appropriate Child Protective Service Unit. All such reports alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age 12 and under, shall also be immediately transmitted by the Department to the appropriate local law enforcement agency. The Department shall within 24 hours orally notify local law enforcement personnel and the office of the State's Attorney of the involved county of the receipt of any report alleging the death of a child, serious injury to a child including, but not limited to, brain damage, skull fractures, subdural hematomas, and, internal injuries, torture of a child, malnutrition of a child, and sexual abuse to a child, including, but not limited to, sexual intercourse, sexual exploitation, sexual molestation, and sexually transmitted disease in a child age twelve and under. All oral reports made by the Department to local law enforcement personnel and the office of the State's Attorney of the involved county shall be confirmed in writing within 24 hours of the oral report. All reports by persons mandated to report under this Act shall be confirmed in writing to the appropriate Child Protective Service Unit, which may be on forms supplied by the Department, within 48 hours of any initial report.

Written confirmation reports from persons not required to report by this Act may be made to the appropriate Child Protective Service Unit. Written reports from persons required by this Act to report shall be admissible in evidence in any judicial proceeding or administrative hearing relating to child abuse or neglect. Reports involving known or suspected child abuse or neglect in public or private residential agencies or institutions shall be made and received in the same manner as all other reports made under this Act.

For purposes of this Section "child" includes an adult resident as defined in this Act.

#### 325 Illinois Compiled Statutes 5/10

Sec. 10. Any person who makes a report or who investigates a report under this Act shall testify fully in any judicial proceeding or administrative hearing resulting from such report, as to any evidence of abuse or neglect, or the cause thereof. Any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to

any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or neglect, or the child subject of the report under this Act and any person who is required to report a suspected case of abuse or neglect under Section 4 of this Act or the person making or investigating the report.

Illinois Code of Civil Procedure §8-803

§ 8-803. **Clergy.**

A clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs, shall not be compelled to disclose in any court, or to any administrative board or agency, or to any public officer, a confession or admission made to him or her in his or her professional character or as a spiritual advisor in the course of the discipline enjoined by the rules or practices of such religious body or of the religion which he or she professes, nor be compelled to divulge any information which has been obtained by him or her in such professional character or as such spiritual advisor.

## INDIANA

### Summary of Provisions

Indiana requires any individual who has reason to believe that a child is a victim of child abuse or neglect to make an immediate oral or written report to the department of child services or to the local law enforcement agency. An individual who has a duty to report suspected child abuse or neglect due to his position as a member of the staff of a private institution, facility, or agency must also immediately notify the individual in charge of the institution, facility, or agency that the report was made. Immediate means without any delay; a school principal who waited four hours to contact law enforcement about a reported rape in a school bathroom was convicted for violating the mandatory reporting statute. Failure to report constitutes a Class B misdemeanor, which is punishable by imprisonment for up to 180 days and by a fine not to exceed \$1,000.

The Indiana Code's definition of child abuse or neglect is broad and makes reference to numerous other code provisions. Child abuse or neglect includes indications that: (1) a child's physical or mental condition is seriously impaired or endangered due to a parent's or guardian's inability or refusal to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; (2) a child's physical or mental health is seriously endangered due to injury by the act or omission of the parent or guardian; (3) a child is the victim of a wide variety of crimes, including battery, strangulation, child neglect or child selling, rape, child molesting, child exploitation, possession of child pornography, vicarious sexual gratification, sexual conduct in the presence of a minor, child solicitation or seduction, sexual battery, sexual misconduct with a minor, public indecency, prostitution, making an unlawful proposition, or incest; (4) the child is a victim of an attempt or conspiracy to commit various crimes, including murder, causing suicide, manslaughter, or reckless homicide; (5) the child lives in the same household as an adult who committed or has been charged with and is awaiting trial on the offenses listed above; (6) the child's parent or guardian allows the child to participate in an obscene performance or to commit indecent acts or prostitution; (7) the child is a missing child or is the victim of criminal confinement or interference with custody; (8) the child has a disability and is deprived of nutrition that is necessary to sustain life or is deprived of medical or surgical intervention necessary to remedy or ameliorate a life threatening medical condition.

Indiana does not exempt priests from mandatory reporting based on communications learned in confession or spiritual direction. However, Indiana recognizes a privilege by which clergymen shall not be required to testify regarding: (1) confessions or admissions made to a clergyman in the course of discipline enjoined by the clergyman's church; or (2) confidential communications made to a clergyman in the clergyman's professional character as a spiritual adviser or counselor. In child abuse and neglect cases, the Indiana Code expressly abrogates the testimonial privilege applicable to a variety of confidential communications, such as those between health care providers and patients, spouses, school counselors or psychologists and students, but no such abrogation exists for confidential communications with clergymen.

Indiana's statutory provisions concerning child abuse reporting can be found at Indiana Code §31-33-5 and §31-34-1. Indiana's statutory provisions concerning testamentary privileges can be found at Indiana Code §34-46-3, and the abrogation of certain testamentary privileges for child abuse cases can be found at Indiana Code §31-32-11. Highlighted excerpts from these statutes follow:

## Excerpts From the Law

### Statutes

#### IC 31-33-5-1 Duty to make report

Sec. 1. In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.

#### IC 31-33-5-2 Report; notification of individual in charge of institution, school, facility, or agency

...

(b) If an individual is required to make a report under this article in the individual's capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, the individual shall immediately make a report to:

- (1) the department [of child services]; or
- (2) the local law enforcement agency.

After making the report, the individual shall notify the individual in charge of the institution, school, facility, or agency or the designated agent of the individual in charge of the institution, school, facility, or agency that the report was made.

#### IC 31-33-5-3 Effect of compliance on individual's own duty to report

Sec. 3. This chapter does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

#### IC 31-33-5-4 Immediate oral or written report to department of child services or law enforcement agency

Sec. 4. A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral or written report to:

- (1) the department [of child services]; or
- (2) the local law enforcement agency.

#### IC 31-33-5-5 Prohibition on policy that restricts or delays an individual's duty to report

...

(b) A medical institution or other public or private institution, public or nonpublic school, school corporation, facility, or agency may not establish any policy that restricts or delays the duty of an employee or individual to report under this chapter.

#### IC 31-33-7-4 Written report; contents

Sec. 4. (a) Except as provided in subsection (b), the department shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral or written report required of individuals by IC 31-33-5-4.

(b) The department shall make a written report of a child who is a missing child (as defined in IC 10-13-5-4) not later than twenty-four (24) hours after receipt of the oral or written report required of individuals by IC 31-33-5-4.



**IC 31-33-22-1 Failure to make report**

Sec. 1. (a) A person who knowingly fails to make a report required by IC 31-33-5-1 commits a Class B misdemeanor.

(b) A person who knowingly fails to make a report required by IC 31-33-5-2 or IC 31-33-5-2.5 commits a Class B misdemeanor. This penalty is in addition to the penalty imposed by subsection (a).

**IC 35-50-3-3 Class B misdemeanor**

Sec. 3. A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars (\$1,000).

IN Code § 31-9-2-14 (2019)

**IC 31-9-2-14 “Child abuse or neglect”**

Sec. 14. (a) “Child abuse or neglect”, for purposes of...IC 31-33 [Juvenile Law: Reporting and Investigation of Child Abuse and Neglect]...refers to a child described in IC 31-34-1-1 through IC 31-34-1-5 and IC 31-34-1-8 through IC 31-34-1-11, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

(b) For purposes of subsection (a), the term under subsection (a) does not refer to a child who is alleged to be a victim of a sexual offense under IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves the fondling or touching of the buttocks, genitals, or female breasts, regardless of whether the child needs care, treatment, rehabilitation, or the coercive intervention of a court.

**IC 31-34-1-1** Inability, refusal, or neglect of parent, guardian, or custodian to supply child with necessary food, clothing, shelter, medical care, education, or supervision

Sec. 1. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child’s physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child’s parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision:

(A) when the parent, guardian, or custodian is financially able to do so; or

(B) due to the failure, refusal, or inability of the parent, guardian, or custodian to seek financial or other reasonable means to do so;

**IC 31-34-1-2** Act or omission of parent, guardian, or custodian seriously endangering child’s physical or mental health; victim of specified offense

Sec. 2. (a) A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child’s physical or mental health is seriously endangered due to injury by the act or omission of the child’s parent, guardian, or custodian; ...

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age, the child:

(1) is a victim of:

- (A) an offense under IC 35-42-1-2.5 [assisted suicide];
- (B) an offense under IC 35-42-2-1 [battery];
- (C) an offense under IC 35-42-2-1.3 [domestic battery];
- (D) an offense under IC 35-42-2-1.5 [aggravated battery];
- (E) an offense under IC 35-42-2-9 [strangulation];
- (F) an offense under IC 35-46-1-4 [neglect or child selling];
- (G) an attempt or conspiracy to commit:
  - (i) an offense listed in clauses (A) through (F); or
  - (ii) an offense under IC 35-42-1-1 [murder], IC 35-42-1-2 [causing suicide], IC 35-42-1-3 [voluntary manslaughter], IC 35-42-1-4 [involuntary manslaughter], or IC 35-42-1-5 [reckless homicide]; or
- (H) an offense under the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (G); and ...
- (c) A child is a child in need of services if, before the child becomes eighteen (18) years of age, the child:
  - (1) lives in the same household as an adult who:
    - (A) committed:
      - (i) an offense described in subsection (b)(1); or
      - (ii) an offense IC 35-42-1-1 [murder], IC 35-42-1-2 [causing suicide], IC 35-42-1-3 [voluntary manslaughter], IC 35-42-1-4 [involuntary manslaughter], or IC 35-42-1-5 [reckless homicide];
  - against another child who lives in the household and the offense resulted in a conviction or a judgment under IC 31-34-11-2 [judgment that a child is in need of services]; or
  - (B) has been charged with committing an offense described in clause (A) against another child who lives in the household and is awaiting trial;

IC 31-34-1-3 Victim of specified offense; living in household with a child victim of a specified offense or an adult who committed or is charged with a specified offense

Sec. 3. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

- (1) the child is the victim of an offense under:
  - (A) IC 35-42-4-1 [rape]...
  - (C) IC 35-42-4-3 [child molesting];
  - (D) IC 35-42-4-4 [child exploitation; possession of child pornography];
  - (E) IC 35-42-4-5 [vicarious sexual gratification; sexual conduct in presence of a minor];
  - (F) IC 35-42-4-6 [child solicitation];
  - (G) IC 35-42-4-7 [child seduction];
  - (H) IC 35-42-4-8 [sexual battery];
  - (I) IC 35-42-4-9 [sexual misconduct with a minor];
  - (J) IC 35-45-4-1 [public indecency];
  - (K) IC 35-45-4-2 [prostitution];
  - (L) IC 35-45-4-3 [making an unlawful proposition];

(M) IC 35-45-4-4 [permitting prostitution];  
(N) IC 35-46-1-3 [incest]; or  
(O) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (N); ...

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age, the child:

(1) lives in the same household as an adult who:

(A) committed an offense described in subsection (a)(1) against a child and the offense resulted in a conviction or a judgment under IC 31-34-11-2 [judgment that a child is in need of services]; or

(B) has been charged with an offense described in subsection (a)(1) against a child and is awaiting trial;

...

(c) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of an offense described in subsection (a)(1);

...

(3) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based on the existence of the circumstances described in subdivisions (1) and (2), and the caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

(d) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as an adult who:

(A) committed a human or sexual trafficking offense under IC 35-42-3.5-1 through IC 35-42-3.5-1.4 or the law of another jurisdiction, including federal law, that resulted in a conviction or a judgment under IC 31-34-11-2; or

(B) has been charged with a human or sexual trafficking offense under IC 35-42-3.5-1 through IC 35-42-3.5-1.4 or the law of another jurisdiction, including federal law, and is awaiting trial;

IC 31-34-1-4 Parent, guardian, or custodian allowing child's participation in obscene performance

Sec. 4. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian allows the child to participate in an obscene performance (as defined by IC 35-49-2-2 or IC 35-49-3-2);

IC 31-34-1-5 Parent, guardian, or custodian allowing child to commit sex offense

Sec. 5. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian allows the child to commit a sex offense prohibited by IC 35-45-4 [indecent acts and prostitution];

IC 31-34-1-8 Missing child

Sec. 8. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child is a missing child [residing at a location unknown to the child's parents or the child is the victim of criminal confinement or interference with custody]

IC 31-34-1-9 Disabled child deprived of necessary nutrition or medical or surgical intervention

Sec. 9. A child in need of services under section 1, 2, 3, 4, 5, 6, 7, or 8 of this chapter includes a child with a disability who:

(1) is deprived of nutrition that is necessary to sustain life; or  
(2) is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition;

if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

IC 31-34-1-10 Child born with fetal alcohol syndrome, neonatal abstinence syndrome, or drugs in the child's body

Sec. 10. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

(1) the child is born with:  
(A) fetal alcohol syndrome;  
(B) neonatal abstinence syndrome; or  
(C) any amount, including a trace amount, of a controlled substance, a legend drug, or a metabolite of a controlled substance or legend drug in the child's body, including the child's blood, urine, umbilical cord tissue, or meconium;

IC 31-34-1-11 Risks or injuries arising from use of alcohol, controlled substance, or legend drug by child's mother during pregnancy

Sec. 11. Except as provided in sections 12 and 13 of this chapter, a child is a child in need of services if:

(1) the child:  
(A) has an injury;  
(B) has abnormal physical or psychological development;  
(C) has symptoms of neonatal intoxication or withdrawal; or  
(D) is at a substantial risk of a life threatening condition;  
that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy;

IC 34-46-3-1 Persons not required to testify

Sec. 1. Except as otherwise provided by statute, the following persons shall not be required to testify regarding the following communications:

(1) Attorneys, as to confidential communications made to them in the course of their professional business, and as to advice given in such cases.

(2) Physicians, as to matters communicated to them by patients, in the course of their professional business, or advice given in such cases.

(3) Clergymen, as to the following confessions, admissions, or confidential communications:

(A) Confessions or admissions made to a clergyman in the course of discipline enjoined by the clergyman's church.

(B) A confidential communication made to a clergyman in the clergyman's professional character as a spiritual adviser or counselor.

#### IC 31-32-11-1 Admissibility of privileged communications

Sec. 1. The privileged communication between:

(1) a husband and wife;

(2) a health care provider and the health care provider's patient;

(3) a:

(A) licensed social worker;

(B) licensed clinical social worker;

(C) licensed marriage and family therapist;

(D) licensed mental health counselor;

(E) licensed addiction counselor; or

(F) licensed clinical addiction counselor;

and a client of any of the professionals described in clauses (A) through (F);

(4) a school counselor and a student; or

(5) a school psychologist and a student;

is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.

#### Caselaw

*Smith v. State*, 8 N.E.3d 668, 670 (Ind. 2014)

Indiana's mandatory child abuse reporting law states that any individual who has reason to believe that a child is a victim of child abuse or neglect "shall immediately make an oral report to" the department of child services or the local law enforcement agency. IC 31-33-5-1; IC 31-33-5-4. Immediate means without any delay. In *Smith v. State*, the Indiana Supreme Court affirmed a high school principal's conviction for failing to report suspected child abuse because the principal waited four hours to call police after he learned of a student's report that another student had raped her in a school bathroom.

## LOUISIANA

### Summary of Provisions

Louisiana requires any mandated reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect to make a report immediately. If the abuser is believed to be the child's parent, caretaker, or the spouse/girlfriend/boyfriend of the child's parent or caretaker, the report must be made through the state child protection reporting hotline (1-855-452-5437). If the abuser is believed to be someone who does not stand in one of these relationships to the child, the report may be made to a local or state law enforcement agency. Mandated reporters include: priests; teachers; teachers' aides; school administrators; social workers; day care providers and any individuals who provide care services to a child in a voluntary or professional capacity; and any person who provides organized activities for children, including administrators, employees, or volunteers of any day camp, summer camp, youth center, or youth recreation programs.

However, priests are not required to report any confidential communication made in the sacrament of confession. In that instance, the priest must encourage that person to report the allegation to the appropriate authorities—either to the state child protection reporting hotline, or to a local or state law enforcement agency.

Any person who is required to report child abuse or neglect but knowingly and willfully fails to do so may be fined not more than \$500 and imprisoned for not more than six months. Any person who is required to report sexual abuse of a child or child abuse or neglect that results in serious injury or death, but knowingly and willfully fails to do so may be fined not more than \$3,000 and imprisoned for not more than three years.

Louisiana's statutory provisions concerning child abuse reporting can be found at Louisiana Children's Code, Art. 603 *et seq.* The criminal penalties for violations of Louisiana's mandatory child abuse reporting requirements can be found at Louisiana Revised Statutes, §14:403. Louisiana's statutory privilege concerning confidential communications to priests can be found at Louisiana Code of Evidence, Art. 511. Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### Louisiana Children's Code Art. 603: Mandatory Reporters

...

(17) "**Mandatory reporter**" is any of the following individuals:

(a) "Health practitioner" is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

(b) "Mental health/social service practitioner" is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family. Notwithstanding any other provision of law to the contrary, when representing a child, as defined in this Code, in a case arising out of this Code, a mental health/social service practitioner shall not be considered a mandatory reporter under

the following limited circumstances: (i) when the practitioner is engaged by an attorney to assist in the rendition of professional legal services to that child, (ii) when the information that would serve as the basis for reporting arises in furtherance of facilitating the rendition of those professional legal services to that child, and (iii) when the information that would serve as the basis for reporting is documented by the mental health/social service practitioner. The documentation shall be retained by the mental health/social service practitioner until one year after the child has reached the age of majority.

(c) "Member of the clergy" is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) "Teaching or child care provider" is any person who provides or assists in the teaching, training, and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, bus driver, coach, professor, technical or vocational instructor, technical or vocational school staff member, college or university administrator, college or university staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child in a voluntary or professional capacity.

(e) Police officers or law enforcement officials.

(f) "Commercial film and photographic print processor" is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(h) A parenting coordinator appointed pursuant to R.S. 9:358.1 et seq.

(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 4 of Title IV.

(j) "Organizational or youth activity provider" is any person who provides organized activities for children, including administrators, employees, or volunteers of any day camp, summer camp, youth center, or youth recreation programs or any other organization that provides organized activities for children.

(k) School coaches, including but not limited to public technical or vocational school, community college, college, or university coaches and coaches of intramural or interscholastic athletics.

Louisiana Children's Code, Art. 609: Mandatory and Permitted Reporting; Training Requirements

A. With respect to mandatory reporters:

(1) Notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report in accordance with Article 610.

(2) Violation of the duties imposed upon a mandatory reporter subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(1).

(3)(a) To familiarize mandatory reporters, as defined by Children's Code Article 603, with their legal mandate for reporting suspected child abuse and neglect, such mandatory reporters shall be offered training on the statutory requirements and responsibility of reporting child abuse and neglect. This training shall be made available by the child welfare division of the Department of Children and Family Services or any other mechanism as approved by the department as long as it includes information on the reporting procedure and the consequences of failing to report.

(b) Each mandatory reporter may obtain mandatory reporting training as each mandatory reporter believes to be necessary in accordance with Subsubparagraph (a) or (d) of this Subparagraph.

(c) The appropriate state regulatory department, board, commission, or agency for each category of mandatory reporter may provide continuing education credit for the completion of the training pursuant to this Paragraph.

(d) Any entity, including but not limited to hospitals, educational and religious institutions, and nonprofits, may provide its employees, volunteers, or educational attendees with equivalent training pursuant to Subsubparagraph (a) of this Subparagraph.

B. With respect to permitted reporters, any other person having cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect, including a judge of any court of this state, may report in accordance with Article 610.

C. The filing of a report, known to be false, may subject the offender to criminal prosecution authorized by R.S. 14:403(A)(3).

Louisiana Children's Code, Art. 610. Reporting Procedure

A.(1) Reports of child abuse or neglect or that such was a contributing factor in a child's death, where the abuser is believed to be a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, shall be made immediately to the department. A permitted reporter shall make a report through the designated state child protection reporting hotline telephone number or in person at any child welfare office. A mandatory reporter shall make a report through the designated state child protection reporting hotline telephone number, via the Louisiana Department of Children and Family Services Mandated Reporter Portal online, or in person at any child welfare office. Reports in which the abuse or neglect is believed to be perpetrated by someone other than a caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with



the parent or caretaker as a spouse whether married or not, and the caretaker is not believed to have any responsibility for the abuse or neglect shall be made immediately to a local or state law enforcement agency. Dual reporting to both the department and the local or state law enforcement agency is permitted.

...

(3) A report made to the department by facsimile does not relieve the reporter of his duty to report in accordance with the applicable requirements of this Article.

B. The report shall contain the following information, if known:

- (1) The name, address, age, sex, and race of the child.
- (2) The nature, extent, and cause of the child's injuries or endangered condition, including any previous known or suspected abuse to this child or the child's siblings.
- (3) The name and address of the child's parent(s) or other caretaker.
- (4) The names and ages of all other members of the child's household.
- (5) The name and address of the reporter.
- (6) An account of how this child came to the reporter's attention.
- (7) Any explanation of the cause of the child's injury or condition offered by the child, the caretaker, or any other person.
- (8) The number of times the reporter has filed a report on the child or the child's siblings.
- (9) Any other information which the reporter believes might be important or relevant.

C. The report shall also name the person or persons who are thought to have caused or contributed to the child's condition, if known, and the report shall contain the name of such person if he is named by the child.

D. If the initial report was in oral form by a mandatory reporter, it shall be followed by a written report made within five days via the online Mandated Reporter Portal of the department or by mail to the centralized intake unit of the department at the address provided on the website of the department; or, if necessary, to the local law enforcement agency. The reporter may use a form for the written report, which shall be developed, approved, and made available by the Department of Children and Family Services. The form is optional and may be available electronically on the department's website.

E.(1) All reports made to any local or state law enforcement agency involving abuse or neglect in which the child's parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, is believed responsible shall be promptly communicated to the department through the designated state child protection reporting hotline telephone number in accordance with a written working agreement developed between the local law enforcement agency and the department.

(2) The department shall promptly communicate abuse or neglect cases not involving a parent, caretaker, or occupant of the household to the appropriate law enforcement agency in accordance with a written working agreement developed between the department and law enforcement agency. The department also shall report all cases of child death which involve a suspicion of abuse or neglect as a contributing

factor in the child's death to the local and state law enforcement agencies, the office of the district attorney, and the coroner.

(3) Reports involving a felony-grade crime against a child shall be promptly communicated to the appropriate law enforcement authorities as part of the interagency protocols for multidisciplinary investigations of child abuse and neglect in each judicial district as provided in Articles 509 and 510.

L.a. Revised Statutes §14:403. Abuse of Children; Reports; Waiver of Privilege

A.(1)(a) Any person who, pursuant to Children's Code Article 609(A), is required to report the abuse or neglect of a child and knowingly and willfully fails to so report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b)(i) Any person who, pursuant to Children's Code Article 609(A), is required to report the sexual abuse of a child, or the abuse or neglect of a child that results in the serious bodily injury, neurological impairment, or death of the child, and the person knowingly and willfully fails to so report, shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than three years, or both.

(ii) For purposes of this Subparagraph, "serious bodily injury" includes but is not limited to injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death, or injury resulting from starvation or malnutrition.

(2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(4)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any person who is eighteen years of age or older who witnesses the sexual abuse of a child and knowingly and willfully fails to report the sexual abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(b) For purposes of this Paragraph, "sexual abuse" shall include but is not limited to the perpetration or attempted perpetration of R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.4, 46.2, 46.3, 80, 81, 81.1, 81.2, 86, 89, or 89.1.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or

between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

La. Code of Evidence, Art. 511. Communications to Clergymen

A. Definitions. As used in this Article:

(1) A "clergyman" is a minister, priest, rabbi, Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him.

(2) A communication is "confidential" if it is made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

B. General rule of privilege. A person has a privilege to refuse to disclose and to prevent another person from disclosing a confidential communication by the person to a clergyman in his professional character as spiritual adviser.

C. Who may claim the privilege. The privilege may be claimed by the person or by his legal representative. The clergyman is presumed to have authority to claim the privilege on behalf of the person or deceased person.

## MASSACHUSETTS

### Summary of Provisions

Massachusetts requires mandatory reporters who have reasonable cause to believe a child is suffering physical or emotional injury as a result of abuse or neglect, to make an immediate oral report to the Department of Children and Families. The reporter must file a written report with the Department within 48 hours. Mandatory reporters may also contact local law enforcement authorities about the suspected abuse.

Mandatory reporters include priests, clergy members, ordained or licensed ministers, leaders of any church or religious body, and people performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, minister, or leader of a church or religious body.

A priest need not report information solely gained in a confession. However, the priest must report suspected child abuse when he is acting in another capacity and learns information which reasonably causes him to believe a child is suffering physical or emotional injury as a result of abuse or neglect.

A mandatory reporter who fails to timely report suspected child abuse or neglect is subject to a fine of not more than \$1,000. A mandatory reporter who has knowledge of child abuse or neglect that resulted in the child's serious bodily injury or death and willfully fails to report such abuse or neglect is subject to a fine of up to \$5,000 and/or imprisonment for not more than 2.5 years.

Statutory and regulatory provisions related to child abuse reporting requirements in Massachusetts can be found at Massachusetts General Laws, Part I, Title XVII, Chapter 119, §§21, 51A and at 110 CMR §2.00. The statutory clergy privilege can be found at Massachusetts General Laws, Part III, Title II, Chapter 233, §20A. Highlighted excerpts of these provisions are included below.

### Excerpts From the Law

Massachusetts General Laws, Part I, Title XVII, Chapter 119, §21

**“Mandated reporter,” a person who is:** (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family child care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer or animal control officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body

to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person's designated agent; or (vi) the child advocate.

Massachusetts General Laws, Part I, Title XVII, Chapter 119, §51A

Section 51A. (a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v) being a human trafficking victim as defined by section 20M of chapter 233.

If a mandated reporter is a member of the staff of a medical or other public or private institution, school or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall become responsible for notifying the department in the manner required by this section.

A mandated reporter may, in addition to filing a report under this section, contact local law enforcement authorities or the child advocate about the suspected abuse or neglect.

(b) For the purpose of reporting under this section, hospital personnel may have photographs taken of the areas of trauma visible on the child without the consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

If hospital personnel collect physical evidence of abuse or neglect of the child, the local district attorney, local law enforcement authorities, and the department shall be immediately notified. The physical evidence shall be processed immediately so that the department may make an informed determination within the time limits in section 51B. If there is a delay in processing, the department shall seek a waiver under subsection (d) of section 51B.

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2.5 years and a fine of not more than \$2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to \$5,000 or imprisonment in the house of correction for not more than 2.5 years or by both such fine and imprisonment; and, upon a guilty finding or

a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

(d) A report filed under this section shall contain: (i) the names and addresses of the child and the child's parents or other person responsible for the child's care, if known; (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter or otherwise assist the child; (vii) the name of the person or persons making the report; (viii) any other information that the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(e) A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than \$1,000.

(f) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(g) No person shall be liable in any civil or criminal action for filing a report under this section, contacting local law enforcement authorities or the child advocate or providing information or assistance, including diagnosis, to the department regarding a report under this section or for cooperating with or testifying in any proceeding involving child abuse or neglect if the report, contact, information, assistance, cooperation or testimony was made or provided in good faith, was not frivolous and the person did not cause the abuse or neglect. Any person filing a report, providing information or assistance, cooperating or testifying under this section may be liable in a civil or criminal action if the department or a district attorney determines that the person may have perpetrated or inflicted the abuse or caused the neglect.

(h) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

(i) Within 30 days of receiving a report from a mandated reporter, the department shall notify the mandated reporter, in writing, of its determination of the nature, extent and cause or causes of the injuries to the child and the services that the department intends to provide to the child or the child's family.

(j) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a report under this section or a care and protection petition under section 24, except that a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected child abuse or neglect under this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a mandated reporter.

(k) A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

Massachusetts General Laws, Part III, Title II, Chapter 233, §20A

Section 20A. A priest, rabbi or ordained or licensed minister of any church or an accredited Christian Science practitioner shall not, without the consent of the person making the confession, be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs; nor shall a priest, rabbi or ordained or licensed minister of any church or an accredited Christian Science practitioner testify as to any communication made to him by any person in seeking religious or spiritual advice or comfort, or as to his advice given thereon in the course of his professional duties or in his professional character, without the consent of such person.

110 CMR §2.00

Under the Department of Children and Families regulations (110 CMR, section 2.00): Abuse means: The non-accidental commission of any act by a caretaker upon a child under age 18 which causes, or creates a substantial risk of, physical or emotional injury; or an act by a caretaker involving a child that constitutes a sexual offense under the laws of the Commonwealth; or any sexual contact between a caretaker and a child under the care of that individual. This definition is not dependent upon location (i.e., abuse can occur while the child is in an out-of-home or in-home setting). Neglect means: Failure by a caretaker, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care; provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition. This definition is not dependent upon location (i.e., neglect can occur while the child is in an out-of-home or in-home setting).

Physical Injury means: Death; or fracture of a bone, a subdural hematoma, burns, impairment of any organ, and any other such nontrivial injury; or soft tissue swelling or

skin bruising, depending upon such factors as the child's age, circumstances under which the injury occurred and the number and location of bruises; or addiction to a drug or drugs at birth; or failure to thrive.

Emotional Injury means: An impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.



## MICHIGAN

### Summary of Provisions

Michigan requires mandatory reporters to report known or suspected child abuse or neglect to the centralized intake office of the Michigan Department of Health and Human Services immediately. The reporter must file a written report within 72 hours of the initial report. Failure to report constitutes a misdemeanor and may subject the mandatory reporter to a private civil action to recover damages caused by the failure to report.

Michigan identifies a number of mandatory reporters of suspected child abuse, including member of the clergy. Michigan law does not abrogate the broad statutory privilege it accords to communications made to a member of the clergy in his professional character in a confession or similarly confidential communication. Such communications are protected from disclosure. However, a member of the clergy must report suspected child abuse or neglect if the clergyman receives information while acting in any other capacity.

Michigan's statutory provisions concerning child abuse reporting can be found at Michigan Compiled Laws §§722.621-722.638. Michigan's statutory clergy privilege can be found at Michigan Compiled Laws §767.5a(b). Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### Michigan Compiled Laws §722.623

Individual required to report child abuse or neglect; report by telephone or online reporting system; written report; contents; transmitting report to centralized intake; copies to prosecuting attorney and probate court; conditions requiring transmission of report to law enforcement agency; pregnancy or presence of sexually transmitted infection in child less than 12 years of age; exposure to or contact with methamphetamine production.

Sec. 3.

(1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or child neglect shall make an immediate report to centralized intake by telephone, or, if available, through the online reporting system, of the suspected child abuse or child neglect. Within 72 hours after making an oral report by telephone to centralized intake, the reporting person shall file a written report as required in this act. If the immediate report has been made using the online reporting system and that report includes the information required in a written report under subsection (2), that report is considered a written report for the purposes of this section and no additional written report is

required. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written or electronic report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

...

(2) The written report or a report made using the online reporting system shall contain the name of the child and a description of the child abuse or child neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the child abuse or child neglect, and the manner in which the child abuse or child neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to centralized intake.

...

Michigan Compiled Laws § 722.624

Persons permitted to report child abuse or neglect.

Sec. 4.

In addition to those persons required to report child abuse or neglect under section 3, any person, including a child, who has reasonable cause to suspect child abuse or neglect may report the matter to the department or a law enforcement agency.

Michigan Compiled Laws § 722.631

Privileged communications.

Sec. 11.

Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act. This section does not relieve a member of the clergy from reporting suspected child abuse or child neglect under section 3 if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under section 3.

Michigan Compiled Laws § 722.633

Failure to report suspected child abuse or neglect; damages; violation as misdemeanor; unauthorized dissemination of information as misdemeanor; civil liability; maintaining report or record required to be expunged as misdemeanor; false report of child abuse or neglect.

Sec. 13.

(1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.

(2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

Michigan Compiled Laws §767.5a

Disclosing identity of informant; privileged and confidential communications.

Sec. 5a.

...

(2) Any communications between attorneys and their clients, between members of the clergy and the members of their respective churches, and between physicians and their patients are hereby declared to be privileged and confidential when those communications were necessary to enable the attorneys, members of the clergy, or physicians to serve as such attorney, member of the clergy, or physician.

## MISSOURI

### Summary of Provisions

Missouri requires mandatory reporters to report known or suspected child abuse or neglect to the Missouri Children's Division within the Department of Social Services immediately. Any evidence of sexual abuse or molestation of a child must be provided within 24 hours. Child abuse reports may be made by telephone. Failure to report constitutes a class A misdemeanor.

Missouri identifies a number of mandatory reporters of suspected child abuse, including members of the clergy. However, Missouri law does not require priests to report information obtained by means of any communication made to him in his professional capacity as a spiritual advisor, confessor, counselor, or comforter.

Missouri's statutory provisions concerning child abuse reporting can be found at Revised Statutes Missouri §§210.109-210.183. Missouri's relevant provisions concerning clergy privileges can be found at Revised Statutes Missouri §352.400 and §491.060(4). Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### Revised Statutes Missouri, § 210.115

210.115. Reports of abuse, neglect, and under age eighteen deaths — persons required to report — supervisors and administrators not to impede reporting — deaths required to be reported to the division or child fatality review panel, when — report made to another state, when. —

1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, peace officer or law enforcement official, volunteer or personnel of a community service program that offers support services for families in crisis to assist in the delegation of any powers regarding the care and custody of a child by a properly executed power of attorney pursuant to sections 475.600 to 475.604, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report to the division in accordance with the provisions of sections 210.109 to 210.183. No internal investigation shall be initiated until such a report has been made. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

#### Revised Statutes Missouri §210.130

210.130. Oral reports, when and where made — contents of reports. —

1. Oral reports of abuse or neglect shall be made to the division by telephone or otherwise.

2. Such reports shall include the following information: The names and addresses of the child and his parents or other persons responsible for his care, if known; the child's age, sex, and race; the nature and extent of the child's injuries, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect to the child or his siblings; the name, age and address of the person responsible for the injuries, abuse or neglect, if known; family composition; the source of the report; the name and address of the person making the report, his occupation, and where he can be reached; the actions taken by the reporting source, including the taking of color photographs or the making of radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color photographs or making of radiologic examinations, removal or keeping of the child, notifying the coroner or medical examiner, and other information that the person making the report believes may be helpful in the furtherance of the purposes of sections 210.110 to 210.165.

3. Evidence of sexual abuse or sexual molestation of any child under eighteen years of age shall be turned over to the division within twenty-four hours by those mandated to report.

Revised Statutes Missouri §210-140

210.140. Privileged communication not recognized, exception. — Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

Revised Statutes Missouri §352.400

352.400. Ministers, duty to report child abuse and neglect — definitions — designation of an agent. — 1. As used in this section, the following words and phrases shall mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse, injury or harm to a child under circumstances required to be reported pursuant to sections 210.109 to 210.183;

(2) "Child", any person regardless of physical or mental condition, under eighteen years of age;

(3) "Minister", any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, Christian Science practitioner, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the care, custody, and control of a child or has access to a child;

(4) "Neglect", failure to provide the proper or necessary support or services by those responsible for the care, custody, and control of a child, under circumstances required to be reported pursuant to sections 210.109 to 210.183;

(5) "Religious organization", any society, sect, persuasion, mission, church, parish, congregation, temple, convention or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, that meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimum standard of

behavior from the standpoint of overall morality is to be observed, or for the sharing of common religious bonds and convictions;

(6) "Report", the communication of an allegation of abuse or neglect pursuant to sections 210.109 to 210.183.

2. When a minister or agent designated pursuant to subsection 3 of this section has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, the minister or designated agent shall immediately report or cause a report to be made as provided in sections 210.109 to 210.183. Notwithstanding any other provision of this section or sections 210.109 to 210.183, a minister shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

3. A religious organization may designate an agent or agents required to report pursuant to sections 210.109 to 210.183 in an official capacity on behalf of the religious organization. In the event a minister, official or staff member of a religious organization has probable cause to believe that the child has been subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 213.183 and the minister, official or staff member of the religious organization does not personally make a report pursuant to sections 210.109 to 210.183, the designated agent of the religious organization shall be notified. The designated agent shall then become responsible for making or causing the report to be made pursuant to sections 210.109 to 210.183. This section shall not preclude any person from reporting abuse or neglect as otherwise provided by law.

Revised Statutes Missouri §491.060

491.060. The following persons shall be incompetent to testify:

...

(4) Any person practicing as a minister of the gospel, priest, rabbi or other person serving in a similar capacity for any organized religion, concerning a communication made to him or her in his or her professional capacity as a spiritual advisor, confessor, counselor or comforter;

## NEW JERSEY

### Summary of Provisions

#### 1. Child Abuse Reporting

New Jersey requires any person who has reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse to make a report immediately to the Division of Child Protection and Permanency by telephone or otherwise. **Priests are NOT exempted from this mandatory reporting requirement.** Anyone who knowingly violates the mandatory reporting requirement is a “disorderly person” under New Jersey law, which is the equivalent of a misdemeanor in other states.

#### 2. Testamentary Privilege

Although New Jersey’s child abuse law does not contain an exemption for priests who learn about child abuse or neglect by means of confidential communications within the confessional or the internal forum of spiritual direction, New Jersey does recognize a priest-penitent privilege by means of which any communication made in confidence to a priest in his professional character, or as a spiritual advisor, shall be privileged. Privileged communications include confessions and other communications made in confidence between and among the priest and individuals, couples, families or groups in the exercise of the priest’s professional or spiritual counseling role.

New Jersey’s statutory provisions concerning child abuse reporting can be found at New Jersey Statutes Annotated §9:6-8.9 through §9:6-8.10. New Jersey’s priest-penitent privilege statute can be found at New Jersey Revised Statutes §2A:84A-23. Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### New Jersey Statutes Annotated §9:6-8.10

9:6-8.10 Report of abuse.

3. Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Child Protection and Permanency by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

#### New Jersey Statutes Annotated §9:6-8.14

9:6-8.14. Violations including failure to make report; disorderly person

Any person knowingly violating the provisions of this act including the failure to report an act of child abuse having reasonable cause to believe that an act of child abuse has been committed, is a disorderly person.

#### New Jersey Revised Statutes §2A:84A-23

2A:84A-23. Cleric-penitent privilege

23. Rule 511. Cleric-penitent privilege.

Any communication made in confidence to a cleric in the cleric's professional character, or as a spiritual advisor in the course of the discipline or practice of the

religious body to which the cleric belongs or of the religion which the cleric professes, shall be privileged. Privileged communications shall include confessions and other communications made in confidence between and among the cleric and individuals, couples, families or groups in the exercise of the cleric's professional or spiritual counseling role.

As used in this section, "cleric" means a priest, rabbi, minister or other person or practitioner authorized to perform similar functions of any religion.

The privilege accorded to communications under this rule shall belong to both the cleric and the person or persons making the communication and shall be subject to waiver only under the following circumstances:

- (1) both the person or persons making the communication and the cleric consent to the waiver of the privilege; or
- (2) the privileged communication pertains to a future criminal act, in which case, the cleric alone may, but is not required to, waive the privilege.



## OHIO

### Summary of Provisions

#### 1. Child Abuse Reporting

Certain individuals, not including priests and church leaders, officials, or delegates, are mandatory reporters for all known or suspected child abuse. Ohio requires any school teacher and any administrator or employee of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp, to make an immediate report if he or she knows, or has reasonable cause to suspect, that a child under age 18 or a developmentally or physically disabled person under age 21 has suffered or faces a threat of suffering any physical or mental injury that reasonably indicates abuse or neglect. Such a report must be made to the public children services agency or to a peace officer in the county in which the child resides or in which the suspected abuse occurred.

Priests and church leaders, officials, or delegates, are mandatory reporters for known or suspected child abuse that was caused by another priest or church leader, official, or delegate. Clerics and all non-volunteer individuals who have been designated by any church, religious society, or faith to act as a leader, official, or delegate for that church, religious society, or faith are required to make an immediate report if they know, or have reasonable cause to suspect, that a child under age 18 or a developmentally or physically disabled person under age 21 has suffered or faces a threat of suffering any physical or mental injury that reasonably indicates abuse or neglect **and** who knows that another cleric or non-volunteer person who has been designated to act as a leader, official, or delegate for that church, religious society, or faith caused or poses the threat of causing the injury that reasonably indicates abuse or neglect. Such a report must be made to the public children services agency or to a peace officer in the county in which the child resides or in which the suspected abuse occurred.

A priest is **not** required to make a report of known or suspected child abuse concerning any communication received directly from a penitent in the sacrament of confession, **unless** all of the following conditions apply:

- (1) the penitent is a child under age 18 or a developmentally or physically disabled person under age 21;
- (2) the priest knows or has reason to believe that the penitent has suffered or faces a threat of suffering any physical or mental injury that reasonably indicates abuse or neglect of the penitent; and
- (3) the abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under age 18 or a developmentally or physically disabled person under age 21 without notification to her parents, guardian, or custodian.

Reports may be made by telephone or in person. The reporter may be required by the receiving agency or officer to submit a written report as a follow up to the oral report. Mandatory reporters are immune from civil and criminal liability for participating in making a report or providing information to be used in a report.

#### 2. Priest-Penitent Privilege

A priest who remains accountable to the authority of the Church concerning a confession made, or any information confidentially communicated to the priest for a religious counseling purpose in the priest's professional character, shall not testify concerning the confidential communication unless the person providing the confidential information:

- (1) voluntarily testifies on the topic; or
- (2) is deemed to have waived the testimonial privilege.

The person providing the confidential information is deemed to have waived the testimonial privilege if all of the following conditions apply:

- (1) the penitent is a child under age 18 or a developmentally or physically disabled person under age 21;
- (2) the priest knows or has reason to believe that the penitent has suffered or faces a threat of suffering any physical or mental injury that reasonably indicates abuse or neglect of the penitent; and
- (3) the abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under age 18 or a developmentally or physically disabled person under age 21 without notification to her parents, guardian, or custodian.

Ohio's statutory provisions concerning mandatory reporting of child abuse can be found at Ohio Revised Code §2151.421. Ohio's priest-penitent privilege statute can be found at Ohio Revised Code §2317.02(c).

### **Excerpts From the Law**

#### Ohio Revised Code §2151.421

- (A) (1) (a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as otherwise provided in this division or section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. If the person making the report is a peace officer, the officer shall make it to the public children services agency in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; health care professional; practitioner of a limited branch of medicine as specified in section [4731.15](#) of the Revised Code; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; peace officer; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion;

...

(4) (a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section [5120.173](#) of the Revised Code, the person making the report shall make it to the public children services agency or a peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section [5120.173](#) of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section [2317.02](#) of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

- (c) The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section [2317.02](#) of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:
- (i) The penitent, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.
  - (ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.
  - (iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a person under twenty-one years of age with a developmental disability or physical impairment without the notification of her parents, guardian, or custodian in accordance with section [2151.85](#) of the Revised Code.
- (d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.
- (e) As used in divisions (A)(1) and (4) of this section, “cleric” and “sacred trust” have the same meanings as in section [2317.02](#) of the Revised Code.

(B) **Anyone** who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child **may report or cause reports to be made** of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section [5120.173](#) of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a peace officer. In the circumstances described in section [5120.173](#) of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

- (1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;
- (2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;
- (3) Any other information, including, but not limited to, results and reports of any medical examinations, tests, or procedures performed under division (D) of this section, that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

...

(H) (1) (a) Except as provided in divisions (H)(1)(b) and (I)(3) of this section, any person, health care professional, hospital, institution, school, health department, or agency shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of any of the following:

- (i) Participating in the making of reports pursuant to division (A) of this section or in the making of reports in good faith, pursuant to division (B) of this section;
- (ii) Participating in medical examinations, tests, or procedures under division (D) of this section;
- (iii) Providing information used in a report made pursuant to division (A) of this section or providing information in good faith used in a report made pursuant to division (B) of this section;
- (iv) Participating in a judicial proceeding resulting from a report made pursuant to division (A) of this section or participating in good faith in a proceeding resulting from a report made pursuant to division (B) of this section.

Ohio Revised Code §2317.02(c)

(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional

**character.** The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and **except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.**

(2) As used in division (C) of this section:

- (a) “Cleric” means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.
- (b) “Sacred trust” means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, **if both of the following apply:**
  - (i) The confession or confidential communication was **made directly to the cleric.**
  - (ii) The confession or confidential communication **was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.**

## PENNSYLVANIA

### Summary of Provisions

A mandated reporter who has reasonable cause to suspect that a child is a victim of child abuse must immediately make an oral report on the statewide toll-free reporting line (1.800.932.0313). A mandated reporter who makes such a report must make a written report, within 48 hours, to the agency assigned to the case. A person who is required to make a report in his or her capacity as a staff member of an institution must also immediately notify the person in charge of the institution about the report. The person in charge of the institution shall facilitate the institution's cooperation with the investigation of the report.

Mandated reporters include priests, and any individual who, whether as a volunteer or employee, in his or her role as an integral part of a regularly scheduled program, activity, or service, is responsible for a child's welfare or has direct contact with children.

Although rules protecting privileged communications generally do not apply in Pennsylvania for situations involving child abuse, confidential communications made to a member of the clergy remain in effect.

A mandatory reporter who willfully fails to report a case of suspected child abuse commits either a felony or a misdemeanor. The willful failure to report suspected child abuse is a third degree felony if: (1) the child abuse constitutes a felony of at least the first degree and the mandatory reporter had direct knowledge of the nature of the abuse; or (2) the mandatory reporter repeatedly willfully fails to report suspected child abuse.

Pennsylvania's statutory provisions concerning child abuse reporting can be found at 23 Pennsylvania Consolidated Statutes, §§6311 *et seq.* Pennsylvania's statutory protection for confidential communications to clergymen can be found at 42 Pennsylvania Consolidated Statutes § 5943. Highlighted excerpts from these statutes follow:

### Excerpts From the Law

#### 23 Pa. C.S. § 6311. Persons required to report suspected child abuse.

(a) Mandated reporters.--The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:

- (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- (2) A medical examiner, coroner or funeral director.
- (3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.
- (4) A school employee.
- (5) An employee of a child-care service who has direct contact with children in the course of employment.
- (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
- (7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, is a person responsible for the child's welfare or has direct contact with children.

- (8) An employee of a social services agency who has direct contact with children in the course of employment.
- (9) A peace officer or law enforcement official.
- (10) An emergency medical services provider certified by the Department of Health.
- (11) An employee of a public library who has direct contact with children in the course of employment.
- (12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with children in the course of employment.
- (13) An independent contractor.
- (14) An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.
- (15) A foster parent.
- (16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Basis to report.--

- (1) A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse in accordance with section 6313 (relating to reporting procedure), if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:
  - (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.
  - (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.
  - (iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
  - (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.
- (2) Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.
- (3) Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(c) Staff members of institutions, etc.--Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall report immediately in accordance with section 6313 and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person



in charge. Upon notification, the person in charge or the designated agent, if any, shall facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases). This chapter does not require more than one report from any such institution, school, facility or agency.

23 Pa. C.S. § 6311.1. Privileged communications.

(a) General rule.--Subject to subsection (b), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:

- (1) Apply to a situation involving child abuse.
- (2) Relieve the mandated reporter of the duty to make a report of suspected child abuse.

(b) Confidential communications.--The following protections shall apply:

(1) Confidential communications made to a member of the clergy are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).

(2) Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys.

23 Pa. C.S. § 6312. Persons encouraged to report suspected child abuse.

Any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement, if that person has reasonable cause to suspect that a child is a victim of child abuse.

23 Pa. C.S. § 6313. Reporting procedure.

(a) Report by mandated reporter.—

(1) A mandated reporter shall immediately make an oral report of suspected child abuse to the department via the Statewide toll-free telephone number under section 6332 (relating to establishment of Statewide toll-free telephone number) or a written report using electronic technologies under section 6305 (relating to electronic reporting).

(2) A mandated reporter making an oral report under paragraph (1) of suspected child abuse shall also make a written report, which may be submitted electronically, within 48 hours to the department or county agency assigned to the case in a manner and format prescribed by the department.

(3) The failure of the mandated reporter to file the report under paragraph (2) shall not relieve the county agency from any duty under this chapter, and the county agency shall proceed as though the mandated reporter complied with paragraph (2).

(b) Contents of report.--A written report of suspected child abuse, which may be submitted electronically, shall include the following information, if known:

- (1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.
- (2) Where the suspected abuse occurred.
- (3) The age and sex of each subject of the report.
- (4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.
- (5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.
- (6) Family composition.
- (7) The source of the report.
- (8) The name, telephone number and e-mail address of the person making the report.
- (9) The actions taken by the person making the report, including those actions taken under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).
- (10) Any other information required by Federal law or regulation.
- (11) Any other information that the department requires by regulation.

Pa. C.S. § 6319. Penalties.

(a) Failure to report or refer.—

(1) A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities commits an offense if the person or official willfully fails to do so.

(2) An offense under this section is a felony of the third degree if:

- (i) the person or official willfully fails to report;
- (ii) the child abuse constitutes a felony of the first degree or higher; and
- (iii) the person or official has direct knowledge of the nature of the abuse.

(3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the second degree.

(4) A report of suspected child abuse to law enforcement or the appropriate county agency by a mandated reporter, made in lieu of a report to the department, shall not constitute an offense under this subsection, provided that the report was made in a good faith effort to comply with the requirements of this chapter.

(b) Continuing course of action.--If a person's willful failure under subsection (a) continues while the person knows or has reasonable cause to believe the child is actively being subjected to child abuse, the person commits a misdemeanor of the first degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the third degree.

(c) Multiple offenses.--A person who commits a second or subsequent offense under subsection (a) commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.

(d) Statute of limitations.--The statute of limitations for an offense under subsection (a) shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.

42 Pa. C.S. § 5943. Confidential communications to clergymen.

No clergyman, priest, rabbi or minister of the gospel of any regularly established church or religious organization, except clergymen or ministers, who are self-ordained or who are members of religious organizations in which members other than the leader thereof are deemed clergymen or ministers, who while in the course of his duties has acquired information from any person secretly and in confidence shall be compelled, or allowed without consent of such person, to disclose that information in any legal proceeding, trial or investigation before any government unit.

## WISCONSIN

### Summary of Provisions

Wisconsin requires mandatory reporters who have reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or threatened with abuse or neglect to report known or suspected child abuse or neglect. Such reports should be made immediately, and can be made by telephone. Reports can be made to law enforcement officers. Wisconsin identifies a number of mandatory reporters of suspected child abuse, including members of the clergy and child care providers. However, Wisconsin exempts priests from mandatory reporting requirements with respect to information he receives solely through confidential communications made to him privately or in a confessional setting if he is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Wisconsin's statutory provisions concerning child abuse reporting can be found at Wisconsin Statutes 48.981. Highlighted excerpts from this statute follow:

### Excerpts From the Law

#### Wisconsin Statutes 48.981

(2) Persons required to report.

(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under subs. (2m) and (2r), report as provided in sub. (3):

...

19. A child care provider.

...

1. Except as provided in subd. 3. and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties:

a. Has been abused, as defined in s. 48.02 (1) (b) to (f); or  
b. Has been threatened with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely occur.

2. Except as provided in subd. 3. and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has done any of the following:

a. Abused a child, as defined in s. 48.02 (1) (b) to (f).  
b. Threatened a child with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely occur.

3. A member of the clergy is not required to report child abuse information under subd. 1. or 2. that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or

is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing.

...

(3) REPORTS; INVESTIGATION.

(a) Referral of report.

1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.