

# Clergy as Mandated Reporters

Understanding the duty of clergy to report suspected child abuse and neglect and when communications are protected by the clergy-penitent privilege

## Clergy's Duty to Report

In South Carolina, members of the clergy who are at least 18 years old are mandated reporters and are required by S.C. Code Ann. § 63-7-310 to report suspected child abuse or neglect. While state law does not provide a definition of "clergy," it does specifically identify regular or duly ordained ministers, Christian Science practitioners, religious healers, rabbis, and priests as clergy.

As mandated reporters, clergy members must report when in their **professional capacity** they have received information which gives them **reason to believe** a child has been or may be abused or neglected as defined in S.C. Code Ann. § 63-7-20.

The mandate to report child abuse or neglect does not require the reporter to know for certain that a child has been abused or neglected. The duty to report is triggered when the mandated reporter has the reasonable belief that a child has been or may be abused or neglected.

Reporting to a supervisor or person in charge of an institution does not relieve a mandated reporter of his or her individual duty to report, and the duty to report is not superseded by an internal investigation within an institution. S.C. Code Ann. § 63-7-310(C).

## Reporting Requirement Exception

The only circumstance in which clergy, including Christian Science practitioners and religious healers, are exempt from being required to report suspected child abuse or neglect occurs when a clergy member's only knowledge of the abuse or neglect is based on information received:

- from the alleged perpetrator of the abuse,
- during a communication protected by the clergy-penitent privilege provided for in § 19-11-90. S.C. Code Ann. § 63-7-420.

## Clergy-penitent Privilege

The clergy-penitent privilege is the protection of confidential communications between clergy members and their church members or other individuals. To be protected by the clergy-penitent privilege, a communication must meet the following four conditions of S.C. Code Ann. § 19-11-90:

- It must be confidential;
- It must be disclosed to a regular or duly ordained minister, priest, or rabbi;
- It must be entrusted to the clergy member when acting in his or her professional capacity; and
- It must be one that is necessary and proper to enable the clergy member to discharge the functions of his or her office according to the usual course of practice or discipline of his or her church or religious body.

## Failure to Report

A clergy member who knowingly fails to report, in an effort to resolve the matter internally with the parties involved, could face criminal and civil liability. A mandated reporter who knowingly fails to report is guilty of a misdemeanor and if convicted, may be fined up to \$500, or imprisoned for up to six months, or both. S.C. Code Ann. § 63-7-410.

## Additional Information

For a detailed overview of mandated reporter requirements and how to make a report, see the Mandated Reporter Guide found on the Children's Law Center website at <http://childlaw.sc.edu>.

To schedule a free training for clergy on mandated reporting, contact the Children's Law Center at 803-777-1646.