



Clergy Privacy FAQs

Arizona



Chaplains and campus ministers can often provide confidential support for people in campus communities who have experienced sexual and domestic violence. Because of mandatory reporting laws and Title IX reporting requirements on campus, privileged communications may provide the most privacy protection for these survivors. Privileged communications may be possible with victim advocates and medical staff on campuses in certain jurisdictions, but sometimes chaplains and campus ministers are the only privileged professionals on campus who are not required to report a disclosed sexual assault.¹ Office on Violence Against Women (OVW)-funded victim service providers (VSPs) who work on campuses need to be able to explain to the people they serve how private any communication with chaplains or campus ministers will be and when these clergy may be required to report abuse, neglect, or sexual assault. These FAQs are meant to help VSPs understand the legal parameters for these communications.

These FAQs describe the clergy-penitent privilege and the mandatory reporting laws in the identified jurisdiction. We include legal citations so that you can read more about the laws and make sure they are current. None of the information in these FAQs is legal advice and you should always check with an attorney about how these laws work in your jurisdiction. The FAQs are a part of our Campus Privacy Toolkit. To receive an electronic copy of the Toolkit, or to ask privacy questions related to your OVW-funded work, please email us at TA@victimrights.org.

1 **What is the clergy-penitent privilege in Arizona?** “In a civil action a clergyman or priest shall not, without the consent of the person making a confession, be examined as to any confession made to him in his character as clergyman or priest in the course of discipline enjoined by the church to which he belongs.” Ariz. Rev. Stat. § 12-2233.

2 **Who is “clergy”?** “Clergy” is not defined in the clergy-penitent statute. “Whether a person is a clergyman of a particular religious organization should be determined by that organization’s ecclesiastical rules, customs and laws.” *Waters v. O’Connor*, 209 Ariz. 380, 385, ¶¶ 21, 103 P.3d 292, 297 (Ariz. Ct. App. 2004).

3 **Who may claim the privilege?** The person making the confession is the holder of the privilege. Ariz. Rev. Stat. § 12-2233; *Church of Jesus Christ of Latter-Day Saints v. Superior Court*, 159 Ariz. 24, 28, 764 P.2d 759, 763 (Ariz. Ct. App. 1988).

¹ Even if a communication is protected from campus reporting by clergy privilege, jurisdictions may require clergy to report abuse of minors, elders, and persons with disabilities.

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How are clergy excepted from, or included in, Arizona’s mandatory reporting laws? (This is not necessarily an exhaustive list of the abuse, neglect, or injuries that must be reported in this jurisdiction.)

Type of abuse or neglect	Rule and exceptions
Child abuse	<p>A “member of the clergy” is one of the specified persons who must report child abuse in Arizona. However, 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.” Ariz. Rev. Stat. § 13-3620(A).</p> <p>While a clergyperson, Christian Science practitioner, or priest may have a duty to report suspected neglect or abuse, the clergyperson, practitioner, or priest will not be compelled to testify in any civil or criminal litigation about any confession made to them “in the course of the discipline enjoined by the church to which he belongs.” Ariz. Rev. Stat. § 13-3620(L).</p>
Abuse of vulnerable adults	<p>Clergy are not compelled to report abuse of vulnerable adults. Further, in “any civil or criminal litigation in which incapacitation, abuse, exploitation or neglect of a vulnerable adult is an issue, a clergyman or priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as clergyman or a priest in the course of the discipline enjoined by the church to which he belongs.” Ariz. Rev. Stat. § 46-453. Stat. § 47.24.010(10).</p>

