



Clergy Privacy FAQs

Florida



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 Florida?** A confidential communication made to a member of the clergy for the purpose of seeking spiritual counsel and advice received in the regular course of the clergy member's practice and discipline is privileged. Fla. Stat. Ann. § 90.505.

2 **Who is "clergy"?** A "member of clergy" is a "priest, rabbi, practitioner of Christian Science, or minister of any religious organization or denomination usually referred to as a church, or an individual reasonably believed to be so by the person consulting him or her." Fla. Stat. Ann. § 90.505(1)(a).

3 **What is a "confidential communication"?** A communication is "confidential" "if made privately for the purpose of seeking spiritual counsel and advice from the member of the clergy in the usual course of his or her practice or discipline and not intended for further disclosure except to other persons present in furtherance of the communication." Fla. Stat. Ann. § 90.505(1)(b).

4 **Who may claim the privilege?** The privilege may be claimed by the person, the guardian or conservator of the person, the personal representative of a deceased person, or the member of the clergy on behalf of the person. The latter's authority "is presumed in the absence of evidence to the contrary." Fla. Stat. Ann. § 90.505(3).

While a member of the clergy may claim the privilege on behalf of the penitent, only the penitent can waive it. *Ronchi v. State of Florida (Burton)*, 248 So.3d 1265, 1270 (Fla. 5th Dist. Ct. App. 2018) (concurring opinion).

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.

How are clergy exempted from, or included in, Florida 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>All persons with knowledge or reasonable suspicion of child abuse, neglect, abandonment, or sexual abuse are mandatory reporters of child abuse. Fla. Stat. Ann. § 39.201.</p> <p>Clergy are exempted from mandatory reporting laws when a communication is privileged under Fla. Stat. Ann. § 90.905. Fla. Stat. Ann. § 39-204.</p>
Abuse of vulnerable adult	<p>“Any person” who knows or has reasonable cause to suspect that a “vulnerable adult” has been or is being abused, neglected, or exploited shall report. Fla. Stat. Ann. § 415.1034.</p> <p>“Vulnerable adult” means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.” Fla. Stat. Ann. § 415.102(28).</p> <p>Clergy are exempted from mandatory reporting laws relating to vulnerable adults when a communication is privileged. Fla. Stat. Ann. § 415.1045(3).</p>

