



Clergy Privacy FAQs

Illinois



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.

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What is the clergy-penitent privilege in Illinois? “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.” 735 Ill. Comp. Stat. 5/8-803.

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What is a “confidential communication”? Clergy privilege extends only to admissions or confessions made in confidence; thus, an admission or confession is not privileged if made to a clergy member in the presence of a third person unless such person is “indispensable” to the counseling or consoling activity of the clergy member. The privilege does not only extend to admissions or confessions made in a one-on-one setting. *People v. Campobello*, 348 Ill. App. 3d 619, 284 Ill. Dec. 654, 810 N.E.2d 307 (Ill. App. Ct. 2004).

“Discipline” referred to in 735 Ill. Comp. Stat. 5/8-803 is limited to the set of dictates binding a clergy member to receive from an individual an “admission” or “confession” for the purpose of spiritually counseling or consoling the individual; therefore, to fall under the protection of 735 Ill. Comp. Stat. 5/8-803, a communication must be an admission or confession (1) made for the purpose of receiving spiritual counsel or consolation, and (2) to a clergy member whose religion requires him to receive admissions or confessions for the purpose of providing spiritual counsel or consolation. *People v. Campobello*, 348 Ill. App. 3d 619, 284 Ill. Dec. 654, 810 N.E.2d 307 (Ill. App. Ct. 2004).

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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Who may claim the privilege? Clergy privilege belongs both to person making the statement and the clergyperson. *People v. Burnidge*, 279 Ill. App. 3d 127, 216 Ill. Dec. 19, 664 N.E.2d 656 (Ill. App. Ct. 2d Dist. 1996), *aff'd*, 178 Ill. 2d 429, 227 Ill. Dec. 331, 687 N.E.2d 813 (Ill. 1997).

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How are clergy excepted from, or included in, Illinois' 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
<p>Child abuse or neglect</p>	<p>Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in their professional capacity may be an abused child as defined by law shall immediately report or cause a report to be made to the Department of Children and Family Services. 325 Ill. Comp. Stat. 5/4(a)(9).</p> <p>“‘Member of the clergy’ means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs.” 325 Ill. Comp. Stat. 5/3.</p> <p>Whenever someone is required to report under the act in their capacity as a member of the clergy, they “shall make a report immediately to the Department in accordance with the provisions of this Act and also may notify the person in charge of the church, synagogue, temple, mosque, or other religious institution, or his designated agent, that such a report has been made. Under no circumstances shall any person in charge of the church, synagogue, temple, mosque, or other religious institution, or his or her designated agent to whom such notification is made, exercise any control, restraint, modification, or other change in the report or the forwarding of such report to the Department.” 325 Ill. Comp. Stat. 5/4(e).</p> <p>However, a “member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.” Ill. Comp. Stat. 5/4(g).</p>
<p>Eligible adult abuse</p>	<p>Any “religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination [must report eligible adult abuse], except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential.” 320 Ill. Comp. Stat. 20/2(f-5)(4).</p> <p>An eligible adult is defined in 320 Ill. Comp. Stat. 20/2(e) as “either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.” “Eligible adult” also includes certain adults who reside in any of the facilities that are excluded from the definition of “domestic living situation.”</p>

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