

# Clergy Privacy FAQs



## Iowa



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.<sup>1</sup> 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](mailto:TA@victimrights.org).

1

**What is the clergy-penitent privilege in Iowa?** A member of the clergy “shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to the person in the person’s professional capacity, and necessary and proper to enable the person to discharge the functions of the person’s office according to the usual course of practice or discipline.” Iowa Code Ann. § 622.10(1).

2

**Who is “clergy”?** The statute does not provide a definition for “members of the clergy.” See *Bandstra v. Covenant Reformed Church*, 913 N.W.2d 19, 52 (Iowa 2018) (finding that “elders” who had not completed formal theological training were, nevertheless, formally regarded as spiritual leaders. In so ruling, the court cited the Church’s governing documents, which “tasked the elders with ‘continuing with prayer,’ ‘maintain[ing] the purity of the Word and Sacraments,’ ‘assist[ing] in catechizing the youth,’ ‘visit[ing] the members of the congregation according to their needs,’ and ‘engag[ing] in family visiting”).

<sup>1</sup> 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.

### 3

**What is a “confidential communication”?** The Iowa Statute does not define “confidential communication.” The communication must be made in circumstances reflecting the communicant’s intent that the communication be confidential. (See § 5.501:8 Confidential communications to clergy, 7 Ia. Prac., Evidence § 5.501:8, citing *State v. Alspach*, 524 N.W.2d 665, 668 (Iowa 1994) (per curiam). Where the subject matter of the communication does not relate to the usual functions of the religious officer or are made in a situation which demonstrates confidentiality was not contemplated, the privilege may not be applicable. See *Blossi v. Chicago & N.W. Ry. Co.*, 144 Iowa 697, 123 N.W. 360 (1909), holding that discussions with minister acting as friend and interpreter in situation unrelated to spiritual affairs is outside privilege.)

### 4

**How are clergy excepted from, or included in, Iowa’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
<b>Child abuse</b>	Members of the clergy are not included on the list of mandatory reporters of child abuse or neglect. I.C.A §232.69(1)(b). However, “[a]ny other person who believes that a child has been abused may make a report . . .” Iowa Code Ann. § 232.69(2).
<b>Dependent adult abuse</b>	<p>Members of the clergy are not included on the list of mandatory reporters of dependent adults. Iowa Code Ann. § 235B.3(2). However, “[a]ny other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.” Iowa Code Ann. § 235B.3(5).</p> <p>A “dependent adult” is defined as “a person eighteen years of age or older who is unable to protect the person’s own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.” Iowa Code Ann. § 235B.2(4).</p>

