



Clergy Privacy FAQs

Kentucky



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 Kentucky?** “A person has a privilege to refuse to disclose and to prevent another from disclosing confidential communication between the person and a clergyman in his professional character as spiritual adviser.” Ky. R. Evid. 505(b).
- 2 Who is “clergy”?** A “clergyman” is “a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him.” Ky. R. Evid. 505(a)(1).
- 3 What is a “confidential communication”?** “A communication is ‘confidential’ if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.” Ky. R. Evid. 505(a)(2).
- 4 Who may claim the privilege?** The privilege may be claimed by the person, by their guardian or conservator, or by their personal representative if they are deceased. The person who was the clergyperson at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the communicant. Ky. R. Evid. 505(c).

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 excepted from, or included in, Kentucky’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 or neglect	<p>“Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made . . .” Ky. Rev. Stat. Ann. § 620.030(1). However, the clergy-penitent privilege is a ground for refusing to report or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. Ky. Rev. Stat. Ann. § 620.030(1).</p>
Abuse of certain adults	<p>“Any person, including but not limited to [certain professionals – clergy is not on the list] having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made . . .” Ky. Rev. Stat. Ann. § 209.030(2).</p> <p>“Adult” is defined as “a person eighteen (18) years of age or older who, because of mental or physical dysfunctioning [sic], is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services.” Ky. Rev. Stat. Ann. § 209.020.</p> <p>Ky. Rev. Stat. Ann. § 209.060 states that “neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of an adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.” Clergy privilege is not mentioned.</p>
Student harassment and other felonies	<p>While Ky. Rev. Stat. Ann. § 158.156 requires school employees to report felonious assault and other crimes against a student listed in Ky. Rev. Stat. Ann. Chapter 508, the clergy-penitent privilege is “a ground for refusing to report under this section or for excluding evidence regarding student harassment in any judicial proceedings resulting from a report pursuant to this section. This subsection also applies in any criminal proceeding in District or Circuit Court regarding student harassment.” Ky. Rev. Stat. Ann. § 158.156(4).</p>

