



Clergy Privacy FAQs

Missouri



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 Missouri?** “Any person practicing as a minister of the gospel, priest, rabbi or other person serving in a similar capacity for any organized religion, concerning a communication made to him or her in his or her professional capacity as a spiritual advisor, confessor, counselor or comforter” is incompetent to testify. Mo. Ann. Stat. § 491.060(4).

2 **What is a “confidential communication”?** “Confidential communication” is not defined in the statute, but at least one case has noted that “casual conversation” with a member of the clergy does not suffice. *State v. Gerhart*, 129 S.W.3d 893, 899 (Mo. Ct. App. W.D. 2004).

3 **Who may claim the privilege?** The clergy-penitent privilege may be waived, but only by the penitent, not the minister. 19 Mo. Prac., Criminal Practice & Procedure § 22:3 (3d ed.) (citing *State v. Morgan*, 196 Mo. 177, 95 S.W. 402, 404 (1906)).

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, Missouri’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 minister (defined to include “any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, Christian Science practitioner, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the care, custody, and control of a child or has access to a child”) that “has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect” shall immediately report. Mo. Ann. Stat. § 210.115(1).</p> <p>However, a minister “shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.” Mo. Ann. Stat. § 352.400(2).</p>
Abuse of eligible adults	<p>“(1) Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services;” and (2) any “Christian Science practitioner” or “minister” “who has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances which would reasonably result in abuse or neglect” “shall be required to immediately report or cause a report to be made to the department . . .” Mo. Ann. Stat. § 192.2405 (2).</p> <p>However, “[n]otwithstanding any other provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.” Id.</p> <p>“Eligible Adult” includes persons sixty years of age or older, or an adult with a disability between the ages of eighteen and fifty-nine. Mo. Ann. Stat. § 192.2400(6).</p>

