

Clergy Privacy FAQs



North Carolina



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 North Carolina? “No priest, rabbi, accredited Christian Science practitioner, or a clergyman or ordained minister of an established church shall be competent to testify in any action, suit or proceeding concerning any information which was communicated to him and entrusted to him in his professional capacity, and necessary to enable him to discharge the functions of his office according to the usual course of his practice or discipline, wherein such person so communicating such information about himself or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted, provided, however, that this section shall not apply where communicant in open court waives the privilege conferred.” N.C. Gen. Stat. Ann. § 8-53.2.

2

What is a “confidential communication”? A confidential communication is a communication made with the expectation of trust and confidentiality. “Confidential communication” was removed from the statutory language in 1967, but the NC Supreme Court held that the legislature’s removal of the confidential communication language “was clearly not intended to broaden application of the privilege to all genre of general conversation with one’s spiritual mentor, but merely to broaden the range of advisory and counseling practices to which it applies. We conclude that the expectation of trust and confidentiality inherent in communications covered under the prior statute was not affected by the legislature’s modification in 1967 of that statute’s wording.” *State v. West*, 317 N.C. 219, 223, 345 S.E.2d 186, 189 (1986).

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, North Carolina’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>“Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent [as defined], or has died as the result of maltreatment, shall report . . .” N.C. Gen. Stat. Ann. § 7B-301. These terms are defined in N.C. Gen. Stat. Ann. § 7B-101.</p> <p>“No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney’s client during representation only in the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile’s abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications.” N.C. Gen. Stat. Ann. § 7B-310. Thus, clergy are mandatory reporters of child abuse.</p>
Disabled adult abuse	<p>“Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the [Director of the County’s Department of Social Services].” N.C. Gen. Stat. Ann. § 108A-102.</p> <p>“‘Disabled adult’ shall mean . . . any person 18 years of age or over . . . who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.” N.C. Gen. Stat. Ann. § 108A-101.</p>

