



Clergy Privacy FAQs

South 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 South Carolina? “In any legal or quasi-legal trial, hearing or proceeding before any court, commission or committee no regular or duly ordained minister, priest or rabbi shall be required, in giving testimony, to disclose any confidential communication properly entrusted to him in his professional capacity and necessary and proper to enable him to discharge the functions of his office according to the usual course of practice or discipline of his church or religious body. This prohibition shall not apply to cases where the party in whose favor it is made waives the rights conferred.” S.C. Code Ann. § 19-11-90.

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, South 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 or neglect	<p>“The following persons must report in accordance with this section when, in such person’s professional capacity, he has received information that gives him reason to believe that a child has been or may be abused or neglected . . . member of the clergy including a Christian Science Practitioner or religious healer, clerical or nonclerical religious counselor who charges for services . . .” S.C. Code Ann. § 63-7-310(A).</p> <p>“The privileged quality of the communication between . . . any professional person and his patient or client, except that between attorney and client or clergy member, including Christian Science Practitioner or religious healer, and penitent, is abrogated and does not constitute grounds for failure to report or the exclusion of evidence in a civil proceeding resulting from a report pursuant to this article. However, a clergy member, including Christian Science Practitioner or religious healer, must report . . . except when information is received from the alleged perpetrator of the abuse and neglect during a communication that is protected by the clergy and penitent privilege.” S.C. Code Ann. § 63-7-420.</p>
Vulnerable adult abuse, neglect, or exploitation	<p>A “Christian Science practitioner” or “religious healer” is a specifically identified mandatory reporter of vulnerable adult abuse if they have reason to believe that a vulnerable adult has been or is likely to be abused, neglected, or exploited. Further, “[a]ny other person who has actual knowledge that a vulnerable adult has been abused, neglected or exploited shall report the incident.” S.C. Code Ann. § 43-35-25.</p> <p>Clergy members are exempt from their reporting if the information is made in the context of the clergy-penitent privilege. S.C. Code Ann. § 43-35-50.</p> <p>A “vulnerable adult” is “a person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person’s own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.” S.C. Code Ann. § 43-35-10(11).</p>

