



# Clergy Privacy FAQs

## Tennessee



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 Tennessee?** “No minister of the gospel, priest of the Catholic Church, rector of the Episcopal Church, ordained rabbi, or regular minister of religion of any religious organization or denomination usually referred to as a church, over eighteen (18) years of age, shall be allowed or required in giving testimony as a witness in any litigation, to disclose any information communicated to that person in a confidential manner, properly entrusted to that person in that person’s professional capacity, and necessary to enable that person to discharge the functions of such office according to the usual course of that person’s practice or discipline, wherein such person so communicating such information about such person or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted.” Tenn. Code Ann. § 24-1-206(a)(1).

**2** **Who may claim the privilege?** The person making the communication holds the privilege. Tenn. Code Ann. § 24-1-206(b).

<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

**How are clergy excepted from, or included in, Tennessee’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
<p><b>Child brutality, abuse, or neglect</b></p>	<p>“Any person who has knowledge of or is called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition shall report such harm immediately if the harm is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or that, on the basis of available information, reasonably appears to have been caused by brutality, abuse or neglect.” Tenn. Code Ann. § 37-1-403(a)(1). Mandatory reporting also extends to child sexual abuse. Tenn. Code Ann. § 37-1-403(a)(3); § 37-1-605(a).</p> <p>Tenn. Code Ann. § 37-1-411 provides that certain evidentiary privileges – the husband-wife privilege; psychiatrist-patient privilege; and psychologist-patient privilege – are not grounds for excluding evidence regarding harm or the cause of harm to a child in any dependency and neglect proceeding resulting from a report of such harm or a criminal prosecution for severe child abuse. However, the clergy privilege is not included on this list, making that evidentiary privilege still applicable.</p>
<p><b>Abuse of adults with mental or physical dysfunctioning or advanced age</b></p>	<p>“Any person” who has reasonable cause to suspect abuse of adults “with mental or physical dysfunctioning or advanced age” must report. Tenn. Code Ann. § 71-6-103(b)(1).</p> <p>Tenn. Code Ann. § 71-6-106 specifically provides that “[n]otwithstanding the existence of the privilege for confidential communications between husband and wife, the chancellor at the hearing may compel testimony if, in the chancellor’s opinion, disclosure is necessary in the interest of the adult.” This provision does not mention other privileges.</p> <p>“Adult” means “a person eighteen (18) years of age or older who because of mental or physical dysfunctioning or advanced age is unable to manage such person’s own resources, carry out the activities of daily living, or protect such person from neglect, hazardous or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance and who may be in need of protective services; provided, however, that a person eighteen (18) years of age or older who is mentally impaired but still competent shall be deemed to be a person with mental dysfunction for the purposes of this chapter.” Tenn. Code Ann. § 71-6-102(2).</p> <p>A “person of advanced age” is a person sixty years or older. Tenn. Code Ann. § 71-6-102(3).</p>

