



Clergy Privacy FAQs

Vermont



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 Vermont?** “A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a member of the clergy in his or her professional character as spiritual adviser.” Vt. R. Evid. 505(b).

2 **Who is “clergy”?** A “member of the clergy” means “a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner.” Vt. 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.” Vt. R. Evid 505(a)(2).

4 **Who may claim the privilege?** “The privilege may be claimed by the person, by his guardian or conservator, or by his personal representative if he is deceased. The person who was the clergyman at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the communicant.” Vt. 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, Vermont’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 “member of the clergy” is on the list of mandatory reporters of child abuse. Vt. Stat. Ann. tit. 33, § 4913(a)(12). However, a “member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is: (1) made to a member of the clergy acting in his or her capacity as spiritual advisor; (2) intended by the parties to be confidential at the time the communication is made; (3) intended by the communicant to be an act of contrition or a matter of conscience; and (4) required to be confidential by religious law, doctrine, or tenet.” Vt. Stat. Ann. tit. 33, § 4913(j). “When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection (j) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection (j) . . .” Vt. Stat. Ann. tit. 33, § 4913(k).</p>
Abuse of vulnerable adults	<p>Clergy are not on the list of mandatory reporters of “vulnerable adult” abuse. “Any other concerned person not listed . . . who knows of or has received a complaint of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited may report or cause a report to be made . . .” Vt. Stat. Ann. tit. 33, § 6903(b).</p> <p>A “vulnerable adult” is “any person 18 years of age or older who: (A) is a resident of a facility required to be licensed under chapter 71 of this title; (B) is a resident of a psychiatric hospital or a psychiatric unit of a hospital; (C) has been receiving personal care services for more than one month from a home health agency certified by the Vermont Department of Health or from a person or organization that offers, provides, or arranges for personal care; or (D) regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, mental condition, or physical, psychiatric, or developmental disability: (i) that results in some impairment of the individual’s ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or (ii) because of the disability or infirmity, the individual has an impaired ability to protect himself or herself from abuse, neglect or exploitation.” Vt. Stat. Ann. tit. 33, § 6902(14).</p>

