



Clergy Privacy FAQs

Wisconsin



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 Wisconsin?** “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 the member’s professional character as a spiritual adviser.” Wis. Stat. § 905.06(2).

2 **Who is “clergy”?** A “member of the clergy” is “a minister, priest, rabbi, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting the individual.” Wis. Stat. § 905.06(1)(a).

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.” Wis. Stat. § 905.06(1)(b).

4 **Who may claim the privilege?** “The privilege may be claimed by the person, by the person’s guardian or conservator, or by the person’s personal representative if the person is deceased. The member of the clergy may claim the privilege on behalf of the person. The member of the clergy’s authority so to do is presumed in the absence of evidence to the contrary.” Wis. Stat. § 905.06(3).

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 exempted from, or included in, Wisconsin’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>Subject to limited exceptions, “a member of the clergy shall report . . . if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties” has been abused or has been threatened with abuse and the abuse is likely to occur. Wis. Stat. § 48.981(2)(bm)(1).</p> <p>Further, subject to limited exceptions, “a member of the clergy shall report . . . if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has” abused a child or threatened a child with abuse and the abuse is likely to occur. Wis. Stat. § 48.981(2)(bm)(2).</p> <p>“A member of the clergy is not required to report child abuse information . . . that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing.” Wis. Stat. § 48.981(2)(bm)(3).</p> <p>“There is no privilege under [the clergy privilege] concerning observations or information that a member of the clergy, as defined in s. 48.981 (1) (cx), is required to report as suspected or threatened child abuse under s.48.981 (2) (bm).” Wis. Stat. §905.06(4).</p>
Elder abuse, financial exploitation, or neglect	<p>Clergy are not specified mandatory reporters of elder abuse. Wis. Stat. § 46.90(4)(ab). However, “any person” may report “if the person is aware of facts or circumstances that would lead a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred.” Id. at (ar).</p> <p>An “elder adult at risk” means “any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.” Wis. Stat. §46.90(br).</p>
Abuse, financial exploitation, or neglect of adults at risk	<p>Clergy are not specified mandatory reporters of adults at risk. Wis. Stat. § 55.043(1m). However, “any person” may report “if the person is aware of facts or circumstances that would lead a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred.” Id. at (br).</p> <p>An “adult at risk” means “any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.” Wis. Stat. § 55.01(1e).</p>