

SENATE BILL REPORT

SB 6298

As Reported by Senate Committee On:
Human Services, January 30, 2024

Title: An act relating to the duty of the clergy to report child abuse or neglect.

Brief Description: Concerning the duty of the clergy to report child abuse or neglect.

Sponsors: Senators Frame, Kauffman, Hunt, Kuderer, Liias, Lovick, Nobles, Shewmake, Valdez and Wellman.

Brief History:

Committee Activity: Human Services: 1/25/24, 1/30/24 [DP, w/oRec].

Brief Summary of Bill

- Provides that members of the clergy are mandated reporters of child abuse and neglect.
- Provides an exception to the mandated reporter requirement for child abuse or neglect for members of the clergy when the information is obtained solely in the context of penitential communication.
- Clarifies that a member of clergy has a duty to warn the Department of Children, Youth and Families or law enforcement when they have a reasonable cause to believe that a child is at imminent risk of being abused or neglected, even if that belief is informed by information obtained in part as a result of a penitential communication.
- Clarifies that the penitential communication does not limit a member of the clergy's duty to report child abuse or neglect when the member of the clergy is acting in some other capacity that would otherwise require them to make a report.
- Defines penitential communication and members of the clergy.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame, Nguyen, Warnick and Wilson, J..

Minority Report: That it be referred without recommendation.

Signed by Senator Boehnke, Ranking Member.

Staff: Alison Mendiola (786-7488)

Background: Mandated Reporting. In Washington, mandatory reporting laws require certain people to report child abuse or child neglect to the Department of Children, Youth or Families (DCYF) or law enforcement. Practitioners, medical examiners, law enforcement officers, professional school personnel, registered or licensed nurses, social service counselors, psychologists, pharmacists, employees of DCYF, licensed or certified child care providers, juvenile probation officers, placement and liaison specialists, responsible living skills program staff, the Department of Social and Health Services employees, HOPE center staff, the Office of the Family and Children's Ombuds (Ombuds) employees, any volunteers in the Ombuds's office, or host home providers, and clergy are all examples of mandated reporters. Mandated reporting requirements are also extended to Department of Corrections personnel; guardians ad litem; court appointed special advocates; any person in an official supervisory capacity with a for-profit or nonprofit organization; administrative, academic, or athletic departmental employees of institutions of higher learning; or any adult who has reasonable cause to believe a child who resides with them is a victim of abuse or neglect. Any other person who has reason to believe child abuse or child neglect has occurred may report that information.

When any person in an official supervisory capacity with a nonprofit or for-profit organization has reasonable cause to believe a child has suffered abuse or neglect caused by a person over whom they regularly exercise supervisory authority, that person shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children, or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service.

No one is required to report when the information is obtained solely as a result of a privileged communication.

Upon suspecting child abuse or child neglect, the mandated reporter must make a report within 48 hours. Failing to report suspected child abuse or child neglect within 48 hours is considered a gross misdemeanor.

Clergy are not mandated reporters of child abuse and neglect. Clergy means any regularly licensed, accredited, or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent.

Summary of Bill: Members of the clergy are mandated reporters of child abuse and neglect. The mandated reporting requirement does not apply to members of the clergy in regard to information that a member of the clergy obtains in the member's professional character as a religious or spiritual advisor when the information is obtained solely in the context of penitential communication. However, a member of clergy does have a duty to warn DCYF or law enforcement when they have reasonable cause to believe that a child is at imminent risk of being abused or neglected, even if that belief is informed by information obtained in part as a result of a penitential communication.

Penitential communication means a communication that communicated through the spoken word; made privately to an individual member of the clergy; intended by the communicant to be an act of contrition or matter of conscience; intended by both parties to be confidential at the time the communication is made; is initiated by the communicant; and made in the manner and context that places the member of the clergy specifically and strictly under a level of confidentiality that is considered inviolate by religious doctrine of the member of the clergy.

Penitential communication does not include any of the following activities:

- providing spiritual direction, unless taking place as part of a penitential communication;
- religious counseling;
- individual or group therapy;
- activity related to human resources or personnel management;
- clergy assignment work;
- communications between clergy, laity, or other members of the faith that occur outside of the penitential context;
- activity related to church administration or management;
- internal judicial proceedings;
- discipline; or
- any written communication.

The clergy-penitent privilege does not apply, and the member of the clergy shall report child abuse or neglect, if the member of the clergy has received information from any source other than from a penitential communication. A member of the clergy has duty to report child abuse or neglect when the clergy is acting in some other capacity that would otherwise require them to make a report.

Member of the clergy means any regularly licensed, accredited, or ordained minister, deacon, priest, rabbi, imam, elder, or similarly situated religious or spiritual leader of any church, religious denomination, religious body, spiritual community, or sect, or person

performing official duties that are recognized as duties of a member of the clergy under the discipline, tenets, doctrine, or custom of the person's church, religious denomination, religious body, spiritual community, or sect, whether acting in the individual capacity as or as an employee, agent, or official of any public or private organization or institution.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Washington is one of five states that doesn't require clergy to report child abuse or neglect. This bill would require that with a very narrow exception and includes a duty to warn when a child may be at imminent risk of child abuse or neglect. However, some believe this narrow exception is more of a loophole to protect clergy. This bill represents a compromise approach while still trying to respect confession, but including a duty to warn where there is an imminent risk. Access to children comes with increased responsibility, no legitimate reason for a loophole.

OTHER: Clergy need to be mandatory reporters, imminent risk does not save this, clergy should not be protected. Confession is unique among other religions in that a priest who breaks the confidentiality of confession is ex-communicated from the Catholic Church; we have failed to protect children and otherwise support this bill.

Persons Testifying: PRO: Senator Noel Frame, Prime Sponsor; Kristiana de Leon, Association of Secular Elected Officials; Alex Ashley; Christopher Marino Hardin; Larry Shannon, Washington State Association for Justice; Mitch Melin.

OTHER: Timothy LAW, Law & Law; Jean Hill, Washington State Catholic Conference.

Persons Signed In To Testify But Not Testifying: No one.