

SB 5280 - H AMD TO HSEL COMM AMD (H-1741.1/23) **575**

By Representative Walsh

NOT ADOPTED 04/11/2023

1 On page 6, line 3 of the striking amendment, after "practitioner,"
2 strike "member of the clergy,"

3
4 On page 8, line 3 of the striking amendment, after "(g)" insert
5 "(i) The reporting requirement in (a) of this subsection also applies
6 to members of the clergy, except with regard to information that a
7 member of the clergy obtains in the member's professional character as
8 a religious or spiritual advisor when the information is obtained
9 solely in the context of a penitential communication.

10 (ii) For purposes of this subsection (1)(g) of this section,
11 "penitential communication" means a communication that is:

12 (A) Communicated through spoken word;

13 (B) Made privately to a member of the clergy;

14 (C) Intended by the communicant to be an act of contrition or a
15 matter of conscience;

16 (D) Intended by both parties to be confidential at the time the
17 communication is made; and

18 (E) Made in the manner and context that places the member of the
19 clergy specifically and strictly under a level of confidentiality that
20 is considered inviolate by religious doctrine of the member of the
21 clergy.

22 (iii) A member of the clergy shall report child abuse or neglect
23 if the member of the clergy has received the child abuse or neglect
24 information from any source other than from a penitential
25 communication.

26 (iv) Nothing in this subsection (1)(g) limits a member of the
27 clergy's duty to report child abuse or neglect when the member of the

1 clergy is acting in some other capacity that would otherwise require
2 them to make a report.
3 (h)"

EFFECT: Maintains the requirement for members of the clergy to report child abuse or neglect, but excludes from that requirement to report child abuse or neglect 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 a penitential communication. "Penitential communication" is defined to mean a communication that is: (1) communicated through spoken word; (2) made privately to a member of the clergy; (3) intended by the communicant to be an act of contrition or a matter of conscience; (4) intended by both parties to be confidential at the time the communication is made; and (5) 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.

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