

SENATE BILL REPORT

SB 5280

As Amended by House, April 11, 2023

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

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

Sponsors: Senators Frame, Boehnke, Hunt, Kuderer, Lovelett, Lovick, Nguyen, Nobles, Saldaña, Wellman and Wilson, C..

Brief History:

Committee Activity: Human Services: 1/24/23, 2/02/23 [DP, w/oRec].

Floor Activity: Passed Senate: 2/28/23, 48-0.

Passed House: 4/11/23, 75-20.

Brief Summary of Bill

- Requires members of the clergy to report suspected child abuse or neglect except for when this information is obtained solely as a result of a confession made pursuant to the clergy-penitent privilege.
- Clarifies that the clergy-penitent privilege 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 members of the clergy.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Boehnke, Ranking Member; Frame, Nguyen and Warnick.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Wilson, J..

Staff: Alison Mendiola (786-7488)

Background: Mandated Reporting. In Washington, mandatory reporting laws require certain people to report suspected 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 shall be 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 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: The mandated reporter requirement also applies to members of the clergy, except with regard to information a member of the clergy obtains in the member's professional character as a religious or spiritual advisor, when the information is obtained

solely as a result of a confession made pursuant to the clergy-penitent privilege as provided in statute and the member of the clergy is authorized to hear such confession, and has a duty under the discipline, tenets, doctrine, or custom of the member's church, religious denomination, religious body, spiritual community, or sect to keep the confession secret. 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 the information from any source other than from a confession.

The clergy-penitent privilege 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.

Member of the clergy means any regularly licensed, accredited, or ordained minister, priest, rabbi, imam, or similarly situated religious or spiritual leader of any church, religious denomination, religious body, spiritual community, or sect, or person performing official duties recognized as the 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 an individual capacity, or as an employee or agent 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: Currently, not all clergy have a duty to report child abuse and neglect, so some abuse and neglect goes unreported. Children need to be able to trust adults, religious leaders have a big duty to their community. Stranger danger doesn't really apply as children are more often abused by an adult they have a trusted relationship with. The clergy-penitent privilege should be struck. Once a mandated reporter, always a mandated reporter. There is a distinction between civil law and canon law, and we should not recognize the loophole of the clergy-penitent privilege. Children are unable to consent to being part of a religious community and should not be punished because of that.

OTHER: Support keeping the clergy-penitent privilege remaining as part of this bill.

Persons Testifying: PRO: Senator Noel Frame, Prime Sponsor; Kristiana de Leon, Association of Secular Elected Officials; Larry Shannon, Washington State Association for Justice; Sara Young.

OTHER: Mario Villanueva, Washington State Catholic Conference.

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

EFFECT OF HOUSE AMENDMENT(S):

- Removes the mandatory reporting of child abuse and neglect exemption for information that a member of the clergy obtains through a confession.
- Adds a person who is an elder to the definition of "member of the clergy."