

**MARYLAND, NEW YORK, AND PENNSYLVANIA SURVEY ON HOW CHILD ABUSE REPORTING LAWS
APPLY TO MINISTERS AND LAY CHURCH WORKERS.**

CHURCH AND TAX LAW REPORT, MAY/JUNE 2008

**APPLICATION OF CHILD ABUSE REPORTING LAWS TO MINISTERS AND CHURCH LAY WORKERS OF
THE EASTERN DISTRICT, LCMS – A SUMMARY**

MARYLAND – All persons are mandatory reporters, but clergy are not required to disclose privileged communications.

NEW YORK – “Clergy” are not mandatory reporters, but are if they are a teacher, counselor, school administrator, etc. (no exception for clergy privilege).

PENNSYLVANIA – “Clergy” are mandatory reporters except for information obtained from privileged communications.

PENNSYLVANIA

| Statute | What is Reportable “Abuse” | Mandatory Reporters | Where to Report | Clergy Privilege |
|--|---------------------------------------|--|---------------------------------|--|
| Consol. Stats. Title 23 §§ 6311 et seq. (1995) | Physical, sexual or Mental Abuse | Includes any “member of the clergy,” school teacher or employee, day-care center worker (6311) | Department of Public Welfare | “Except with respect to confidential com- munications made to an ordained member of the clergy...the privileged communications between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.” [6311] |

NEW YORK

| Statute | What is Reportable “Abuse” | Mandatory Reporters | Where to Report | Clergy Privilege |
|---|---|--|---|--|
| Soc. Serv. Law §§411 et seq [2007] | A child under 18 defined as an abused child by the Family Court Act. | Includes any school official, social services worker, day care center Worker, provider of family or group family day care or any other child care or foster care worker, mental health professional having “reasonable cause to suspect that a child coming Before them in their Professional or official capacity is an abused or maltreated child”[413] | Oral reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective agency. | Notwithstanding the privileges set forth in article forty-five of the civil practice law and rules, and any other provision of law to the contrary, mandated reporters who make a report which initiates an investigation of an allegation of child abuse or maltreatment are required to comply with all requests for records made by a child protective service relating to such a report...[415]. |

MARYLAND

| Statute | What is Reportable “Abuse” | Mandatory Reporters | Where to Report | Clergy Privilege |
|--|--|--|--|---|
| Family Code §§ 5-701 et seq. [2003] | Sexual abuse of a child by anyone; or physical or mental abuse of a child “by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member.” | Any person “If suspected abuse or neglect is alleged to have occurred outside of this state, a person who would be required to report suspected abuse or neglect under the provisions of section 5-704 or 5-705 shall report the suspected abuse or neglect to any [department of social services for a county in this state].” | Department of Social Services or law enforcement agency. | “A minister of the gospel clergyman, or priest of an established church or any denomination is not required to provide notice [of child abuse] if the notice would disclose matter in relation to any communication described in [the clergy-penitent privilege] and: (i) the communication was made to the minister, clergyman, or priest in a professional character in the course of discipline enjoined by the church to which the minister, clergyman, or priest belongs; and (ii) the minister, clergyman, or priest is bound to maintain the confidentiality of that communication under canon law, church doctrine, or practice.” [705] |