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TO: Child Abuse and Neglect Reporting Working Group  
House Committee on Human Services

FROM: Professor Marci A. Hamilton  
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RE: Clergy as Mandated Reporters Under Vermont Law

DATE: May 8, 2026

Thank you for inviting me to submit written testimony to the Child Abuse and Neglect Reporting Working Group. By way of introduction, I am a church-state scholar at the University of Pennsylvania where I teach Constitutional Law. I also am the Founder of CHILD USA, a think tank dedicated to ending child abuse and neglect. One of my areas of expertise is clergy sex abuse.

I am limiting my remarks to the provision in 33 VSA 4913 that addresses clergy mandated reporters and the need to increase penalties for all mandated reporters to make the statute more effective. 33 VSA 4913 (h), (j) & (k).

### **I. Clergy Mandated Reporters**

I applaud Vermont for mandating clergy reporting. There is a significant amount of clergy sex abuse across denominations and sects, which requires as much vigilance as possible. This link will take you to a good summary of clergy mandated reporting laws at this time, which was put together by a seminary. <https://www.thebibleseminary.edu/post/are-clergy-mandated-reporters>.

I am concerned, however, with the breadth of the exemption for the confessional privilege. The following is the current language with my suggested edits in bold and underlining. In the definition of the confessional privilege, I suggest clarifying that it is limited to communication between the communicant and the spiritual advisor. I have seen cases in other states where the church argues that a conversation between three or more people constitutes a confessional for

these purposes, or that a conversation between two people and then shared with a third constitutes a confessional. Neither of those possibilities should be permitted to water down the mandate of clergy to report if Vermont intends to ensure that the natural instinct in religious organizations to keep bad behavior like sex abuse secret is deterred.

I also suggest making it clearer that the clergy mandate employs the same standard as the rest of the mandated reporting statute: reports must be made if someone “suspects” abuse. They do not need full knowledge. Far from it. The confessional privilege should not shield information obtained in any other way that justifies a suspicion of abuse or neglect. In other words, the spiritual advisor may receive far less information generally than they learned in the confessional, but the standard for reporting is whether they “suspect” abuse or neglect and, therefore, reporting should be triggered by a significantly smaller quantum of information than they may have already learned in the confessional. Finally, if the communicant breaks the confidentiality of the exchange between him or her and their spiritual advisor, the advisor must report their suspicions of abuse or neglect.

(j) A member of the clergy shall not be required to make a report under this section if the report would be based solely upon information received in a communication that is:

(1) made to a member of the clergy acting in his or her capacity as spiritual advisor;

**(1a) limited to communication between a single communicant and the spiritual advisor;**

(2) intended by the two parties to be confidential at the time the communication is made;

(3) intended by the communicant to be an act of contrition or a matter of conscience; and

(4) required to be confidential by religious law, doctrine, or tenet.

(k) When a member of the clergy receives any information about abuse or neglect of a child in a manner other than as described in subsection (j) of this section, **and reasonably suspects abuse or neglect of a child, he or she shall report in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. He or she is** required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection (j) of this section. **If the confidentiality of the confessional is broken by the communicant, the spiritual advisor must report what they learned in the confessional if he or she “reasonably suspects abuse or neglect of a child.”**

## II. Effective Penalties for Individuals and Institutions and Corporations

One of the issues with mandated reporting generally is that the penalties tend to be insufficient to create an adequate incentive and they treat repeated failures with the same penalties as a single failure. I recommend creating an ascending scale of penalties, so that the person who repeatedly fails to protect children is more harshly punished. I also recommend adding a penalty for institutions or corporations that have employees or volunteers who fail to report two or more times to incentivize them to do effective training and prevention work.

(h)(1) **(a) A person who violates subsection (c) of this section once shall be fined not more than \$1,000.00.**

**(b) A person who violates subsection (c) of this section twice shall be fined not more than \$2,000.00 or less than \$1,000.00.**

**(c) A person who violates subsection (c) of this section three times shall be fined not more than \$5,000.00 or less than \$4,000.00.**

**(d) A person who violates subsection (c) of this section four times or more shall be fined not more than \$10,000.00 or less than \$5,000.00.**

(2) A person who violates subsection (c) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both. **A person who violates subsection (c) of this section two or more times shall be deemed to have intended to conceal abuse or neglect of a child.**

**(3) An institution or corporation whose employee or volunteer violates subsection (c) of this section shall be fined \$25,000 for each employee or volunteer who violates subsection (c) two or more times.**

Thank you for this opportunity and I welcome questions.

Sincerely,



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The views expressed are solely my own and not representative of the University of Pennsylvania.