

## Church Law & Tax Report, May/June, 2010

State	Statute	What is Reportable “Abuse”	Mandatory Reporters	Where to Report	Clergy Privilege
DE	Code Title 16 902 et seq. (2006)	Physical injury by those responsible for the care, custody and control of the child; emotional or sexual abuse by anyone	Includes any person who knows or in good faith suspects child abuse or neglect	The Division of Child Protective Services for Children, Youth and Their Families	“No legally recognized privilege, except that between... priest and penitent in a sacramental confession shall apply to situations involving known or suspected child abuse... and shall not constitute grounds for failure to report (child abuse) or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.” [909]
DC	Code 4-1321.01 et seq. (2009)	Physical, sexual, or mental abuse by a parent, guardian, or custodian	Includes any day care worker, teacher, or athletic coach.	Metropolitan Police Department or the Child Protective Services Division of the Department of Human Services	“Neither the spouse or domestic partner privilege nor the physician-patient privilege shall be grounds for excluding evidence in any proceeding concerning the welfare of a neglected child.”
MD	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 and the victim is currently a child who lives outside of this state, a person who would be required to report abuse or neglect under 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].”  If the child abuse occurred outside of the state, a mandatory reporter must report the abuse as if it occurred within Maryland. “After receiving a report of	Department of Social Services or law enforcement agency	“A minister of the gospel, clergyman, or priest of an established church of 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]

			<p>suspected abuse or neglect...the local department shall forward the report to the appropriate agency outside of this state that is authorized to receive and investigate reports of suspected abuse or neglect.”</p> <p>[5-705]</p>		
NC	<p>Stats. 7B-101 et seq. (2005)</p>	<p>Physical, sexual, or mental abuse by a child’s guardian, custodian, or caretaker (a “caretaker” is any person having responsibility for the welfare of a child in a residential setting; a “custodian” is a person or agency that has been awarded legal custody of a child, or a person who has assumed the status of a parent)</p>	<p>Any person or institution who has cause to suspect that any juvenile is abused</p> <p>[7B-301]</p>	<p>Department of Social Services</p>	<p>“No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused... even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney’s client during representation only in the abuse... case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse... in any judicial proceeding in which a juvenile’s abuse... is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications.” [7B-310]</p>
PA	<p>Consol. Stats. title 23 6311 et seq. (2006)</p>	<p>Physical, sexual, or mental abuse</p>	<p>“A person who, in the course of employment, occupation or practice of a profession, comes into contract with children shall report or cause a report to be made ...when the person has reasonable cause to suspect, on he basis of medical, professional or other training and experience, that a child under the care, supervision, guidance or training of that</p>	<p>Department of Public Welfare</p> <p>“Whenever a person is required to report...in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person</p>	<p>“Except with respect to confidential communications made to an ordained member of the clergy... the privileged communication 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]</p>

			<p>person or of an agency, institution, organization or other entity with which that person is affiliated is a victim of child abuse, including child abuse by an individual who is not a perpetrator.”</p> <p>This definition includes any “member of the clergy” schoolteacher or employee, or day care center worker. (6311)</p>	<p>shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification the person in charge or the designated agent, if any shall assume the responsibility and have the legal obligation to report or cause report to be made in accordance with section 6313. This chapter does not require more than on report from any such institution, school, facility or agency.” (6311c)</p>	
SC	Code 63-7-310 et seq. (2008)	Physical, sexual, or mental abuse by a child’s “parent, guardian or other person responsible for his welfare” (includes an employee of a child day care facility).	<p>Includes a “member of the clergy, and any school teacher, counselor, principal, assistant principal, social or public assistance worker, or child care worker in a childcare center or foster care facility</p> <p>“when in the person’s</p>	Department of Social Services or a local law enforcement agency	“The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client or clergy member, including Christian Science Practitioner or religious healer, and penitent, is abrogated and does not constitute grounds for failure to report or the exclusion of evidence in a civil protective proceeding resulting from a report pursuant to this article. However, a clergy member, including Christian Science Practitioner or religious healer, must report in

			professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected.” [310]		accordance with this subarticle except when information is received from the alleged perpetrator of the abuse and neglect during a communication that is protected by the clergy and penitent privilege as provided for in section 19-11-90. “ [420]
VA	Code 63.2 1501 et seq. (2009)	Physical, sexual, or mental abuse by a child’s parent of “other person responsible for his care”	Includes any teacher or other person employed in a public or private school or nursery school, mental health professional, any person “associated with or employed by any private organization responsible for the care, custody or control of children,” and “any person providing full time or part time child care for pay on a regularly planned basis.  If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school, or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department or his designee, who shall make such report forthwith.” (63.2-1509)	Department of Social Services	The reporting requirement “shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to (the clergy-penitent privilege) if offered as evidence in court.” (63.2-1509)

