

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 412 (Senator Kelley, *et al.*)
Judicial Proceedings

Family Law - Child Abuse and Neglect - Reporting by Members of the Clergy

This bill limits a provision that exempts members of the clergy from reporting requirements for child abuse and neglect.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A minister of the gospel, clergyman, or priest of an established church of any denomination is not required to provide notice of child abuse or neglect if the notice would disclose matter communicated by the perpetrator in the course of a confession and the minister, clergyman, or priest is specifically bound to maintain the confidentiality under canon law or church doctrine. This exemption may not be construed to modify or limit the duty to report suspected child abuse or neglect whenever a minister, clergyman, or priest acts in a capacity that would otherwise require the minister, clergyman, or priest to report suspected abuse or neglect, or if:

- information was obtained from any source other than the perpetrator in the course of a confession, including personal observation of the victim even though information may also have been obtained from the perpetrator in the course of a confession;

- information was communicated by the perpetrator in the course of a confession in the presence of a third party; or
- information was communicated by the perpetrator in the course of a confession and disclosed by a minister, priest, or clergyman to a third party.

The bill repeals an existing exemption from reporting requirements that applies if the notice would disclose matter in relation to any communication under the priest-penitent privilege and the communication was made to the minister, clergyman, or priest in a professional character in the course of discipline enjoined by the religious institution.

Current Law: In general, a person other than a health care practitioner, police officer, educator, or human service worker who has reason to believe that a child has been subjected to abuse, must notify the local department of social services or the appropriate law enforcement agency. If the person has reason to believe a child has been subjected to neglect, then that person must notify the local department. (Health care practitioners, police officers, educators, and human service workers are also required to report suspected child abuse or neglect, but are subject to different reporting requirements.)

A person is not required to provide notice of suspected abuse or neglect in violation of the attorney-client privilege if the notice would disclose matter communicated in confidence by a client to the client's attorney, other information relating to client representation, or in violation of any constitutional right to assistance of counsel.

A minister of the gospel, clergyman, or priest of an established church of any denomination is not required to provide notice of suspected abuse or neglect if the notice would disclose matter in relation to any communication under the priest-penitent privilege and the communication was made to the minister, clergyman, or priest in a professional character in the course of discipline enjoined by the religious institution and the minister, clergyman, or priest is bound to maintain the confidentiality of that communication under canon law, church doctrine, or practice.

A local department of social services or law enforcement agency that receives an oral report of suspected abuse must immediately notify the other agency. Local departments and law enforcement agencies are not prohibited from agreeing to cooperative arrangements. A report made by a person covered under these provisions may be oral or in writing. To the extent possible, a report made must include identifying and other information about the suspected abuse or neglect. However, a report made will be regarded as an official report, whether or not the report contains all the required information about the suspected abuse or neglect. Promptly after receiving a

report of suspected abuse or neglect, the appropriate agency must conduct an investigation.

Additional Information

Prior Introductions: None.

Cross File: HB 823 (Delegate McIntosh, *et al.*) – Judiciary.

Information Source(s): Department of Human Resources, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2003
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