

HB

92

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU, ALASKA 99801-1182

(907) 465-2028
FAX (907) 465-2273

STATE AFFAIRS COMMITTEE

March 18, 2003

TO: Legislative Legal

FROM: Ginny Austerman, Committee Aide, House State Affairs

A handwritten signature in cursive script, appearing to read "Ginny".

RE: CSHB 92 Clergy to Report Child Abuse

Attached are amendments agreed upon today at the House State Affairs Committee meeting. Please draft a final bill.

Thank you.

AMENDMENT # 1
To CSHB 92

Section 3. AS 47.17.290

Page 3 Line 2,

change the words "Christian Science practitioner," to "religious healing practitioner,"

AMENDMENT # 2
To CSHB 92

Sec. 2. AS 47.17.021

Page 2 Line 18,

Insert after the word communication "to a member of the clergy"

Insert after the word intended "by the communicating person"

Strike the words "including a sacramental confession made"

Page 2 line 19

Change the word "a" to "the" and insert a comma after the word "member"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 5, 2003

SUBJECT: Clergy to report child abuse (CSHB 92(); draft version "D")

TO: Representative Bob Lynn

FROM: Terri Lauterbach
Legislative Counsel *Terri Lauterbach*

Enclosed is the blank CS you requested for HB 92.

In accordance with instructions from you and your staff, I have

(1) removed "religious practitioner, or similar functionary" from the definition of "clergy member" in sec. 3;

(2) changed "may" to "shall" in the second line of sec. 4;

(3) added a 10-year "look back" provision in the fourth line of sec. 4;

(4) removed the phrase "Except for AS 47.17.068" which was at the beginning of the last sentence of sec. 4(a) in HB 92; and

(5) added a new subsection (e) to sec. 4, which imposes a class B misdemeanor penalty for failure to make reports about past abuse under sec. 4; this language is the same as currently exists in AS 47.17.068 for failure to report current suspicions of child abuse.

If I may be of further assistance, please advise.

TML:med
03-243.med

Enclosure

23-LS0257AD
Lauterbach
3/5/03

CS FOR HOUSE BILL NO. 92()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES LYNN, Wilson, Holm, Wolf, Kookesh, Stevens, Heinze, Kerttula

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to reports by members of the clergy and custodians of clerical records**
2 **who have reasonable cause to suspect that a child has suffered harm as a result of child**
3 **abuse or neglect."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1. AS 47.17.020(a) is amended to read:**

6 (a) The following persons who, in the performance of their occupational
7 duties, or with respect to (8) of this subsection, in the performance of their appointed
8 duties, have reasonable cause to suspect that a child has suffered harm as a result of
9 child abuse or neglect shall immediately report the harm to the nearest office of the
10 department:

- 11 (1) practitioners of the healing arts;
- 12 (2) school teachers and school administrative staff members of public
13 and private schools;
- 14 (3) peace officers and officers of the Department of Corrections;

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- (4) administrative officers of institutions;
- (5) child care providers;
- (6) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- (7) paid employees of an organization that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol;
- (8) members of a child fatality review team established under AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created under AS 47.14.300;

(9) clergy members, except as provided in AS 47.17.021.

* **Sec. 2.** AS 47.17 is amended by adding a new section to read:

Sec. 47.17.021. Reports by clergy members. (a) Notwithstanding AS 47.17.020(a), a clergy member who acquires knowledge of or reasonable cause to suspect child abuse or neglect during a penitential communication is not subject to AS 47.17.020(a). In this subsection, "penitential communication" means a communication intended to be in confidence, including a sacramental confession made to a clergy member who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications and, under the discipline, tenets, customs, or practices of the church, denomination, or organization, has a duty to keep those communications secret.

(b) This section may not be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter under AS 47.17.020(a).

* **Sec. 3.** AS 47.17.290 is amended by adding a new paragraph to read:

(17) "clergy member" means a priest, minister, or rabbi of a church, temple, or recognized religious denomination or religious organization.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CLERGY REPORTS OF PAST SUSPECTED SEXUAL ABUSE. (a) On or before

1 January 1, 2004, a clergy member or a custodian of records for the clergy member shall report
2 to the Department of Health and Social Services or to a law enforcement agency if the clergy
3 member or a custodian of records for the clergy member, within the 10 years immediately
4 preceding the effective date of this Act, in a professional capacity or within the scope of
5 employment, other than during a penitential communication, acquired knowledge of or
6 reasonable cause to suspect that a child had been the victim of sexual abuse that the clergy
7 member or a custodian of records for the clergy member did not previously report to the
8 department or to a law enforcement agency. The provisions of AS 47.17 apply to all reports
9 made under this subsection.

10 (b) This section shall apply even if the victim of the known or suspected abuse has
11 reached the age of majority by the time the report is made.

12 (c) The local law enforcement agency shall have the jurisdiction to investigate a
13 report of sexual abuse made under this section, even if the report is made after the victim has
14 reached the age of majority.

15 (d) The definitions in AS 47.17.290 apply to this section.

16 (e) A person who fails to comply with (a) of this section and who knew or should
17 have known that the circumstances gave rise to the need for a report is guilty of a class B
18 misdemeanor.

23-LS0257N
Lauterbach
3/12/03

CS FOR HOUSE BILL NO. 92()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES LYNN, Wilson, Holm, Wolf, Kookesh, Stevens, Heinze, Kerttula

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6 duties, or with respect to (8) of this subsection, in the performance of their appointed
7 duties, have reasonable cause to suspect that a child has suffered harm as a result of
8 child abuse or neglect shall immediately report the harm to the nearest office of the
9 department:

- 10 (1) practitioners of the healing arts;
- 11 (2) school teachers and school administrative staff members of public
12 and private schools;
- 13 (3) peace officers and officers of the Department of Corrections;
- 14 (4) administrative officers of institutions;

- 1 (5) child care providers;
- 2 (6) paid employees of domestic violence and sexual assault programs,
3 and crisis intervention and prevention programs as defined in AS 18.66.990;
- 4 (7) paid employees of an organization that provides counseling or
5 treatment to individuals seeking to control their use of drugs or alcohol;
- 6 (8) members of a child fatality review team established under
7 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
8 under AS 47.14.300;
- 9 (9) clergy members, except as provided in AS 47.17.021 and except
10 that, notwithstanding other provisions of this section or this chapter, a clergy
11 member is not required to report a reasonable suspicion of harm to a child if the
12 clergy member believes that the harm comes only from neglect.

13 * Sec. 2. AS 47.17 is amended by adding a new section to read:

14 **Sec. 47.17.021. Reports by clergy members.** (a) Notwithstanding
15 AS 47.17.020(a), a clergy member who acquires knowledge of or reasonable cause to
16 suspect child abuse during a penitential communication is not subject to
17 AS 47.17.020(a). In this subsection, "penitential communication" means a
18 communication intended to be in confidence, including a sacramental confession made
19 to a clergy member who, in the course of the discipline or practice of the clergy
20 member's church, denomination, or organization, is authorized or accustomed to hear
21 those communications and, under the discipline, tenets, customs, or practices of the
22 church, denomination, or organization, has a duty to keep those communications
23 secret.

24 (b) This section may not be construed to modify or limit a clergy member's
25 duty to report known or suspected child abuse when the clergy member is acting in
26 some other capacity that would otherwise make the clergy member a mandated
27 reporter under AS 47.17.020(a).

28 (c) In this section, "child abuse" has the meaning given to "child abuse or
29 neglect" in AS 47.17.290, except that it does not include "neglect," as defined in
30 AS 47.17.290.

31 * Sec. 3. AS 47.17.290 is amended by adding a new paragraph to read:

1 (17) "clergy member" means a bishop, pastor, priest, minister, rabbi,
2 Christian Science practitioner, or person in a similar leadership position of a church,
3 temple, religious denomination, or religious organization.

23-LS0257VH
Lauterbach
1/03

CS FOR HOUSE BILL NO. 92()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES LYNN, Wilson, Holm, Wolf, Kockesh, Stevens, Heinze, Kerttula

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8 child abuse or neglect shall immediately report the harm to the nearest office of the
9 department:

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- 11 (2) school teachers and school administrative staff members of public
12 and private schools;
- 13 (3) peace officers and officers of the Department of Corrections;
- 14 (4) administrative officers of institutions;

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

- 1 (5) child care providers;
- 2 (6) paid employees of domestic violence and sexual assault programs,
3 and crisis intervention and prevention programs as defined in AS 18.66.990;
- 4 (7) paid employees of an organization that provides counseling or
5 treatment to individuals seeking to control their use of drugs or alcohol;
- 6 (8) members of a child fatality review team established under
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21 those communications and, under the discipline, tenets, customs, or practice of the
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26 some other capacity that would otherwise make the clergy member a mandated
27 reporter under AS 47.17.020(a).

28 (c) In this section, "child abuse" has the meaning given to "child abuse or
29 neglect" in AS 47.17.290, except that it does not include "neglect," as defined in
30 AS 47.17.290.

31 * Sec. 3. AS 47.17.290 is amended by adding a new paragraph to read:

leader, including but not limited to

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(17) "clergy member" means a bishop, pastor, priest, minister, or
Christian Science practitioner of a church, temple, or religious denomination or
religious organization.

Alaska State Legislature



Chair
Military and Veterans Affairs Committee

Vice-Chair
Labor and Commerce Committee

Member
Resources Committee
State Affairs Committee
Joint Armed Services Committee

Finance Subcommittees
House Environmental Conservation
House Military & Veterans' Affairs
House Court System

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
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Interim:
716 W. 4th Ave., #330
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Phone: (907) 269-0205
Fax: (907) 269-0207
Representative_Bob_Lynn@legis.state.ak.us

February 24, 2003

To: Representative Bruce Weyhrauch, Chairman
State Affairs Committee

Fr: Representative Bob Lynn *BL*

Re: Scheduling of HB 92
"An Act relating to reports by members of the clergy and custodians of clerical records who have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect."

Please schedule HB 92 to be heard before the State Affairs Committee as soon as your calendar allows it. Thank you.

Alaska State Legislature



Chair
Military and Veterans Affairs Committee

Vice-Chair
Labor and Commerce Committee

Member
Resources Committee
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House Environmental Conservation
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SPONSOR STATEMENT

HB 92

It is essential that children be protected from the abuse of sexual predators. Several classes of persons, such as nurses and teachers, are currently mandated to report actual or suspected child abuse to the appropriate authorities.

HB 92 adds clergy to the list of mandated reporters of child abuse. The bill does recognize and address the unique character of "penitential communication".

In summary, HB 92 adds to the protection of child safety, and enhances the beneficial work and reputation of the faith community.

Alaska State Legislature



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Military and Veterans Affairs Committee

Vice-Chair
Labor and Commerce Committee

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Sectional Analysis for HB 92

- Section 1.** Simply adds clergy members as a 9th category to the existing 8 categories of people currently required to report child abuse or neglect.
- Section 2.** Exempts knowledge obtained through a confession/penitential communication from the law.
- Section 3.** Defines Clergy member in statute
- Section 4.** Transitional provision encouraging clergy and record keepers to report suspicion of child abuse, which took place before the passage of this bill.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: HB 92

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title REPORTS OF HARM BY CLERGY

BRU Family and Youth Services

Component Front Line Social Workers

Sponsor LYNN

Requester HOUSE (STA)

Component No. 2305

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 92 requires that members of the clergy be identified as mandated reporters of suspected child sexual abuse or neglect under certain circumstances. Section 1 amends AS 47.17.020(a) which governs identified mandatory reporters of suspected child abuse or neglect. The amendment adds clergy members to the list of mandated reporters. The Department is in agreement with requiring members of the clergy to be mandated reporters and supports this amendment.

Section 2 amends AS 47.17 by adding a new Section 47.17.021, which allows "penitential communication" to not be subject to the mandatory reporting requirement. The section goes on to define penitential communication as a communication with a clergy member intended to be confidential, as part of the clergy members official duties.

Prepared by: Tom Cherian, Acting Division Director

Phone 465-3191

Division Family & Youth Services

Date/Time 02/20/2003

Approved by: Joel S. Gilbertson, Commissioner

Date 02/27/2003

Agency Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. HB 92

ANALYSIS CONTINUATION

The Department supports Section 2 as written.

Section 3 amends AS 47.17.290 by adding a definition of "clergy member." The Department agrees with this definition.

Section 4 amends the uncodified law to address clergy reports of past sexual abuse. The amendment states that on or before January 1, 2004, a member of the clergy or a custodian of records for the clergy may report to the Department or law enforcement, suspected or known child sexual abuse that may have occurred in the past that they did not report. This applies even if the alleged victim has reached the age of majority. Law enforcement would have the jurisdiction to investigate these reports of past sexual abuse. There would be no penalty for failure to report the suspected abuse in the past. The Department supports this amendment.

Should this bill become law the department does not anticipate any fiscal impact.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 92
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to reports by members of the BRU Criminal Division
clergy . . .suspect that a child has suffered harm . . ." Component All
 Sponsor Representative Lynn
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would add members of the clergy to the list of mandatory reporters of child abuse and neglect, unless the knowledge of or reasonable cause to suspect child abuse and neglect was acquired during a penitential communication. The law would be retroactive, even if the victim had reached the age of majority. Failure to report is a class B misdemeanor.

The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division Attorney General's Office Date/Time 2/24/03 5:13 PM
 Approved by: Kathryn Daughhelee for Gregg D. Renkes, Attorney General Date 2/24/2003
 Agency Department of Law



NORTHWEST RELIGIOUS LIBERTY ASSOCIATION

February 20, 2003

Representative Bob Lynn
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Lynn:

The Northwest Religious Liberty Association is the government relations division of the Seventh-day Adventist Church.

As the vice-president for the NRLA, I would like to give my/our support of HB 92. The bill is certainly in line with our church policy. As a pastor I must help to protect our children in any way possible, and I believe that this bill could work toward that end. I would be interested when this bill is scheduled for committee.

Sincerely,

Gary S. Waterhouse, vice-president
Northwest Religious Liberty Association;
pastor, Juneau 7-th day Adventist Church

Mailing: P.O. Box 16670
Portland, OR 97292-0670

Location: 10225 E. Burnside St.
Portland, OR 97216

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SEARCH HELP

Word, concept or phrase

Keywords

RELIGIONLINK

Faith and peace

What role should faith groups play in advocating world peace?

They should participate fully, including political activism and civil disobedience.

They should abide by local law and custom, but make their voice heard.

They should not interfere or comment on secular policy.

[view results](#)

ReligionLink

APRIL 1 , 2002

STATES

Clergy sex abuse: New move toward tougher state laws

Just as policies on handling accusations of clergy sex abuse vary from Roman Catholic diocese to diocese, state laws differ widely on whether clergy and religious institutions are required to report allegations to law enforcement. Now, more states are considering tougher laws. The New York Senate, for one, unanimously passed a bill on March 26 to require clergy to report suspicions of child abuse.

Twelve states specifically require clergy to report suspected abuse, according to the National Clearinghouse on Child Abuse and Neglect Information, a federal agency. Another 16 states require "all persons" to report abuse. But many states grant exemption for information clergy learn during confession. (See list below).

In states where clergy are required to report abuse, what have been the effects, according to state attorneys general, advocates of children and victims, and religious leaders? Are clergy exempted if reporting accusations would violate confidentiality between clergy and confessor? What statutes of limitation for sex-abuse allegations are in effect? Is your state considering a new law, or a tougher one? Are there other laws, such as those involving mental health counseling, that apply or that grant special clergy exemptions?

Why it matters

Because some religious institutions have handled allegations without involving the criminal justice system, many victims' only recourse has been lawsuits. Now child advocates, prosecutors and citizens are calling for laws to be toughened.

- [Skip to hot sources](#)
- [Skip to sources in your region](#)

Background

- A March 22 Associated Press article, "Clergy Reporting Rules," about state laws for reporting clergy abuse of minors is posted here. Under the listing of "Tort Law News" click "More" to find it.
- AdvocateWeb, a nonprofit group working against exploitation by professionals such as clergy and therapists, links to a sampling of state laws regarding sexual offenses. AdvocateWeb also tracks news stories via a

free electronic newsletter and Media Update Archives.

- A Princeton Theological Seminary field handbook article explaining areas of the law affecting clergy, including child abuse reporting and privileged communication, can be found here.
- The Poynter Institute is tracking clergy abuse news stories here.

Hot sources

- The National Clearinghouse on Child Abuse and Neglect Information, Washington, D.C., a federal agency under the U.S. Department of Health and Human Services, can help with research and statistics. Call (800) FYI-3366 or (703) 385-7565 or email nccanch@calib.com.
- The U.S. Conference of Catholic Bishops supports stricter laws as long as the laws shield the privilege of confession and other clergy-parishioner conversations, (202) 541-3000.
- Attorney Jeff Anderson of St. Paul, Minn., has represented hundreds of clients who say Catholic priests sexually victimized them. Reinhardt & Anderson law firm, 651-227-9990 or info@ralawfirm.com.
- The Rev. Marie M. Fortune, founder and senior analyst at the Center for the Prevention of Sexual and Domestic Violence in Seattle, Wash., has written several books, including *Is Nothing Sacred? When Sex Invades the Pastoral Relationship* (HarperSanFrancisco). Dr. Fortune, a United Church of Christ minister, edits *The Journal of Religion and Abuse*. 206-634-1903, mfortune@cpsdv.org. See a March 9 column Fortune wrote for *The Dallas Morning News*.
- James T. Richardson, professor of sociology and judicial studies at the University of Nevada, Reno, specializes in ways religious groups come into conflict with the law. Office 775-784-6270, department 775-784-6647, jtr@unr.edu.

In your region

- The states that specifically require clergy to report suspected child abuse and neglect but grant confessional privilege are Arizona, California, Maine, Minnesota, Montana, Nevada, North Dakota, Oregon, and Pennsylvania, according to the National Clearinghouse on Child Abuse and Neglect Information.
- New Hampshire mandates clergy reporting and specifically denies confessional privilege.
- Connecticut and Mississippi require clergy to report, and say nothing in child abuse and neglect reporting statutes about confessional privilege.
- The states that mandate all persons to report child abuse or neglect but grant confessional privilege are Delaware, Florida, Idaho, Kentucky, Maryland, Utah, and Wyoming.
- The states that mandate all persons to report and specifically deny confessional privilege are North Carolina, Rhode Island, and Texas.
- Indiana, Nebraska, New Jersey, New Mexico, Oklahoma, and Tennessee require everyone to report; child abuse and neglect reporting statutes say nothing about confessional privilege.
- Four states' statutes do not specifically mention clergy or "all persons" as people required to report child abuse and neglect, but they do bring up confessional privilege. Among those states, Louisiana, Missouri, and South Carolina grant it, and Washington State denies it.

ILLINOIS

- Illinois does not require clergy to report suspected child abuse. The Illinois Department of Children and Family Services discusses the law here.

INDIANA

- Indiana requires all citizens and, specifically, staff members of any public or private institution, school, facility or agency to report suspected child abuse. A copy of the code is posted here.

KENTUCKY

- Kentucky requires all citizens to report suspected child abuse, but exempts clergy-penitent communication. The Governor's Office of Child Abuse and Domestic Violence Services discusses the law and the exemptions.

MICHIGAN

- Michigan enacted legislation last year criminalizing sexual contact between mental health professionals and clients, but HB 4525 only moved forward after the deletion of language that had included clergy and spiritual counselors.
- Michigan does not require clergy to report suspected child abuse. The *Detroit Free Press* reported March 27 that a statewide poll, conducted March 19-25 by Lansing-based EPIC/MRA, found that more than 80 percent of Michigan residents said the law should be changed to require the reports.

OHIO

- Ohio specifically requires religious "healers" to report suspected child abuse or neglect. Look up a copy of the revised code relating to child abuse and neglect, Section 2151.421.

WEST VIRGINIA

- West Virginia specifically requires clergy and religious healers to report suspected child abuse or neglect. See West Virginia Children's Services' discussion of reporting requirements.

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OPINION

Abuse law

Clergy should be included

Rep. Bob Lynn has introduced a bill that would require priests, ministers, rabbis and other religious leaders to report instances of abuse or neglect of minors to police.

Rep. Lynn's measure is in response to allegations of sexual abuse by the Rev. Francis Murphy, a former Anchorage priest, made by Service High School principal Pat Podvin. The Rev. Murphy never was charged with a crime, and Mr. Podvin was not a minor when the abuse allegedly occurred, but allegations of other abuse by the Rev. Murphy and the widespread reports of abuse of minors by priests prompted Rep. Lynn, a Catholic, to act.

Failure to report abuse or neglect would be a misdemeanor.

Perhaps the most important aspect of the measure is its message that religious leaders are not above the law or beyond the law. If anything, their positions of authority and trust require they be held to a higher standard, certainly on a par with doctors and teachers. The Rev. Greg Lindsay of Juneau pointed out that children "should be protected before anyone else." He's right.

Rep. Lynn said people expect their legislators to act responsibly. His bill would make it a legal requirement that men and women of the cloth act responsibly in cases of abuse. It's a step in the right direction.

Bill would expand law on abuse

■ **MINORS:** Religious leaders would have to report incidents.

The Associated Press

JUNEAU — A bill filed by a lawmaker would hold priests, ministers, rabbis and other religious leaders accountable for failing to report incidents of abuse or neglect of a minor.

Rep. Bob Lynn, R-Anchorage, wants to extend a law that applies to school teachers and staff, doctors, child care providers and police officers to religious institutions.

Failure to report instances of abuse, sexual or otherwise, is a misdemeanor under Alaska law.

Lynn said the measure would apply to religious leaders but not their congregations. It would exempt any information acquired through a confession or penitential communication.

Lynn, a Catholic who attends St. Benedict's Church in Anchorage, said media reports of clerical sexual abuse prompted his bill.

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REPORT: *Would be a misdemeanor*

Continued from B-1

or on the evening news, people become aware of it and expect responsible legislators to address the issue, and that's what I'm trying to do as a responsible legislator," Lynn said.

An Anchorage high school principal recently alleged a former priest at St. Patrick's Catholic Church abused him when he was 18. Pat Podvin said the Rev. Francis Murphy, who later transferred from Anchorage to the Boston area, sexually abused him at a Girdwood residence more than 20 years ago. Murphy was named last week as one of several Catholic priests accused of sexual abuse who were allowed to move to other states and continue their work.

Retired Catholic Archbishop Francis Hurley last week apologized for not helping Podvin after he reported the abuse. Hurley also admitted

that there have been other allegations of abuse within the "last few years" but no one was charged with a crime.

Bob Flint, executive director for the Alaska Catholic Conference, said he believes the conference will support the measure. The conference includes Anchorage, Fairbanks and Juneau. Flint pointed out that the measure would not have applied in the Podvin case because the victim was not a minor.

The Rev. Greg Lindsay of Northern Light United Church in Juneau said he supports the measure.

"I think that because children get the short end of the stick a lot of the time, they should be protected before anyone else," said Lindsay, who heads a Presbyterian-Methodist congregation.

Measure would hold Alaska clergy responsible for abuse

By TIMOTHY INKLEBARGER
JUNEAU EMPIRE © 2003

Priests, ministers, rabbis and other religious leaders would be held accountable for failing to report incidents of abuse or neglect of a minor under a bill filed Monday by an Anchorage lawmaker.

Mandatory reporting laws already exist for school teachers and staff, doctors, child-care providers and police officers. But Republican Rep. Bob Lynn said the law should extend to clergy to protect children as well as religious institutions.



REP. BOB LYNN

Failure to report instances of abuse, sexual or otherwise, constitutes a misdemeanor under Alaska law. Lynn said the measure, which is expected

to be read on the House floor Wednesday, would apply to religious leaders but not members of their congregations.

It would, however, exempt any information acquired through a confession or "penitential communication."

Lynn did not cite specific examples but noted media reports of clerical sexual abuse prompted his bill.

"Whenever anything gets in the headlines or on the evening news, people become aware of it, and expect responsible legislators to address the issue and that's what I'm trying to do as a responsible legislator," said Lynn, a Catholic who attends St. Benedict's Church in Anchorage.

An Anchorage high school principal recently alleged a former priest at St. Patrick's Catholic Church abused him when he was 18. Pat Podvin said the Rev. Francis Murphy, who later transferred from Anchorage to the Boston area, sexually abused him at a Girdwood residence more than 20 years ago. Murphy was named last week as one of several Catholic priests accused of sexual abuse who were allowed to move to other states and continue their work.

Clergy: Law would only apply to the state's religious leaders

Retired Catholic Archbishop Francis Hurley last week apologized for not helping Podvin after he reported the abuse. Hurley also admitted that there have been other allegations of abuse within the "last few years" but no one was charged with a crime.

Bob Flint, executive director for the Alaska Catholic Conference, said the law would not have applied in Murphy's alleged abuse of Podvin, because the victim was 18, but added that he believes the conference will support the measure.

The Alaska Catholic Conference includes the diocese of Anchorage, Fairbanks and Juneau.

Flint, an attorney who argues business law in Anchorage, said Lynn consulted with him before introducing the bill. Flint said Lynn was looking for language that provided exceptions for the Catholic confession and extended to similar confessions to other religious leaders.

The Rev. Greg Lindsay of Northern Light United Church in Juneau said he supports the measure and noted he thought it already existed.

"I think that because children get the short end of the stick a lot of the time, they should be protected before anyone else," said Lindsay, who heads a Presbyterian-Methodist congregation.

Lindsay noted that moving religious leaders around from church to church is just as common for Methodists as it is for Catholics.

"(This law) might have the affect of ministerial colleagues holding one another accountable," he said.

Lynn said his bill would protect the church from allowing child abuse to go unpunished.

"I think many in the clergy will welcome this. If you are concerned about the health of the church, you have got to be concerned about this," he said.

Juneau
Empire
Tuesday
Feb 11, 2003



The Family Church

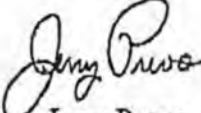
ANCHORAGE BAPTIST TEMPLE

February 24, 2003

Dear Representative Lynn:

Thank you for the opportunity to comment on HB 92. At this time we agree with the provisions of HB 92. I had our Christian Law Association review the provisions and they were complimentary on the wording of the bill. They believe it will help provide public safety for the children of Alaska, yet preserve the "confidentiality aspect" necessary for a minister to perform his ministerial duties. I would support the bill as it is written, but would like to be notified if there are any changes.

Sincerely,


Jerry Prevo

**Representative Bob Lynn
District 31 Anchorage
Fax: (907) 269-0207**

Bob,

Thanks for sending me the fax concerning your bill IIB 92. I do support your bill that the clergy should be required to report actual or suspected child abuse. I also agree with your reasoning for the bill. The public safety of our children and preserving the reputation of the clergy is essential. I am, as a Christian, mandated by the Lord in the scriptures to do just what you are asking me to do. Ephesians 5:11 says, "And do not participate in the unfruitful deeds of darkness, but instead even expose them." If it is your desire for me to be of any additional service in this matter, then please do not hesitate to call.

Grateful for your service to our state,

Pastor John F. Hunn



Pastor Hunn from
Anchorage Grace Church

February 19, 2003

Rob Lynn
Representative Lynn
State Capitol, Room 415
Juneau, AK 99801-1182
United States of America

Dear Representative Lynn,

We have read HB 92 and find that it is in keeping with our goal for Legislation that Actively works for the protection of our children. We feel that it can only benefit our children to make those that protect their spirits to also protect their bodies. It is our feeling that we all should work to protect our children.

Clergy have often been welcomed into homes and families in ways that no one else has. This position allows them to be aware of the internal family working in a child's life. Just as teacher and childcare providers are expected to report suspected child abuse, so should clergy. Their access to a family is often the same if not greater. We feel that there is sufficient language in the bill to protect the sanctity of confession made within the bounds of religious practice. At the same time not allowing a loophole. We also appreciate the effective date for reporting compliance regarding past sexual abuse. As well as expanding reporters in that instance to include those who keep records for the clergy.

The more adults who put the safety of the children in their lives first, the better off our children will be. Child Abuse is not a family problem it is a community problem. It is time that we as a community confront it. It is only right that our moral compass step up to the front lines in that confrontation. Thank you for your work to advance the right of safety for our children.

Sincerely,

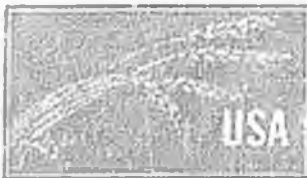
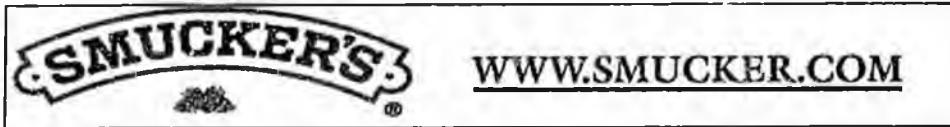
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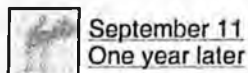
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SPECIAL PROJECTS



COMFORT: James Egan and Anita Guibault, alleged clergy-abuse victims, hug at a protest. STEW MILNE/AP

More states moving to tighten sex-abuse laws for clergy

Bills call for clergy to report alleged abuse or extend time period for victims to file suits.

By **Seth Stern** | Staff writer of *The Christian Science Monitor*

The sexual-abuse scandal spreading through the Roman Catholic Church this spring is prompting moves in legislatures nationwide to tighten laws designed to ensure that cases of abuse are reported to authorities and prosecuted.

Lawmakers in at least seven states have introduced bills this year to extend the period when civil and criminal charges can be filed against abusers, or to require clergy to report allegations they hear about.

The moves come as the Catholic Church faces a continuing tide of lawsuits – some 300 since January – and new allegations of sexual abuse of boys and young men by priests.

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An incident last week shows how close US forces and their allies in Afghanistan come to fighting one another.

At a meeting in Dallas this week, Catholic bishops are expected to revise their internal policies regarding abuse allegations. But for now, the lawsuits and media coverage have put pressure on legislatures to act.

Revised laws could provide new protection for sex-abuse victims while creating new liabilities for churches and clergy.

Currently, all 50 states have mandatory-reporting laws regarding sexual abuse of children. But many do not apply to the clergy. Others, in a middle ground, provide that clergy need not report information that comes to light in situations such as the Catholic sacrament of confession.

This year, the tenor of the laws has begun to shift.

In Massachusetts, the epicenter of the scandal, acting Gov. Jane Swift signed a bill last month adding clergy to the list of mandatory reporters, which already included teachers, doctors, and child-care workers. Legislators in Illinois, Missouri, and Colorado have all recently approved bills requiring clergy to report abuse. State governors are expected to sign the measures.

Other states are extending their statutes of limitation that govern whether years-old cases can be brought up in court. Connecticut has extended its statute of limitations. Similar legislation is making its way through California's legislature, but has failed in Minnesota.

As state lawmakers consider such moves, they are being lobbied by a range of groups. These include Catholics and other religious denominations, including The First Church of Christ, Scientist, which publishes this newspaper, and child advocates. But lawmakers say the strongest lobbying often comes, not surprisingly, from embattled Catholic churches in each state.

Connecticut State Rep. Michael Lawlor (D), who sponsored one such bill, says the Catholic Church was the main opponent to expanding the statute of limitations.

The lobbying efforts, large or small, come within a new political climate.

In Wisconsin, state Sen. Alberta Darling says she plans to present mandatory-reporting legislation for priests next year, and expects much easier going than when she backed a similar measure in 1995.

The legislative climate can put the Catholic Church and other denominations in a difficult position as they acknowledge public pressure for new standards and at the same time stand up for time-

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honored traditions such as the confidentiality of confessions.


"We would support any legislation that would protect children," says Marie Hilliard, executive director of the Connecticut Catholic Conference. "Whether this will do that remains to be seen." She says the church did not actively lobby against any provisions of the legislation, but enlisted a law firm it regularly hires to monitor legislation.

In Missouri and Illinois, Catholic bishops proved willing to accept legislation making clergy mandatory reporters, as long as the laws protected confessions. Both states passed bills carving out such exceptions, advocated by an array of denominations, to protect clergy who learn about abuse while serving as spiritual advisers. The provision was criticized by victims' advocates. "This exception could gut the rule," says Lyn Schollett of the Illinois Coalition Against Sexual Abuse.

In Colorado, a coalition of Protestant churches enlisted Martin Nussbaum, a lawyer specializing in church-state law, to oppose the initial draft of a proposed mandatory-reporting law. A revised version of the bill overwhelmingly passed both houses and now awaits the governor's signature.

In Minnesota, associations representing public schools and municipalities joined churches to oppose legislation extending the statute of limitations.

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Autumn Brenton / KTUU

Rep. Bob Lynn says his bill aims to "help the clergy help themselves," but will not violate the seal of the confessional.

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Bill would require clergy to report sexual abuse

Juneau, Alaska, Feb. 1. - Should a minister, priest or rabbi face criminal charges for not reporting the sexual abuse of children? A bill being introduced Wednesday in the Alaska Legislature could do just that.



Dan Fagan

Alaska has a mandatory reporting law for some professions, but it does not apply to ministers, priests or other clergy.

Under state law, police officers, day care providers, health care workers, drug counselors, teachers and other professionals must report any known case of child abuse or face charges.

"I think we have to help the clergy help themselves," said Rep. Bob Lynn, R-Anchorage. The former head of Anchorage



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Right to Life, Lynn wants the law to apply to clergy, too.

"I think clergy, as a whole, would respond positively to this legislation," Lynn said. "I don't know why they would not. The only ones who would not respond positively, I would think, are those who like the status quo."

Lynn filed his bill now after all the publicity in Anchorage and nationwide involving unreported sexual abuse in the Catholic Church. But Lynn, who is a Catholic, says his bill applies to all religions. "It is unfair, I think, to single out one church or another."

Bob Flint is an attorney for the Anchorage Diocese. "One of the things we certainly want to do in all this controversy is for everybody to cooperate the best we can to protect children," he said.

Rep. Lynn's bill does not require priests to report child abuse learned during confession. "It would break the seal of the confessional, and that's sacred to our church," he said.

As for the question, which is more sacred -- a child's safety or the seal of confession? "Well, I guess God's going to have to answer that," Lynn said.

Last week, former Anchorage Archbishop Francis Hurley apologized for not helping a teen-ager 20 years ago when he reported being sexually abused by a priest. Lynn said he hopes his bill would prevent that from happening again.

Among other things happening in the legislature Tuesday, Sen. Gretchen Guess, D-Anchorage, introduced a bill shrinking the time the legislature meets from 120 days down to 90 days. Guess said that would save the state almost \$1 million a year.

Also, Rep. Lesil McGuire introduced a bill that would permanently confiscate the computer from anyone convicted of possessing child pornography.

And Fairbanks Sen. Ralph Seekins passed out during a Senate Finance Committee meeting. He was taken to the hospital and is now OK. Seekins said he had flu-like symptoms and that may be why he passed out.

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February 26, 2003

Representative Bob Lynn
Alaska State Legislature
Alaska State Capitol
Juneau, AK 99801-1182

Re: HB 92

Dear Bob,

This morning the Alaska Catholic Conference formally endorsed your bill on clergy reporting of suspected sexual abuse of minors, HB 92.

The bishops commend you on your efforts to enhance the protection of children while preserving the sanctity of penitential rites.

Very truly yours,

Robert B. Flint
Executive Director

Russian Orthodox Diocese of Sitka and Alaska

Orthodox Church in America

The Most Blessed HERMAN, Metropolitan and Primate

The Right Reverend NIKOLAI, Bishop of Sitka, Anchorage and Alaska

PO Box 210569 Anchorage, AK 99521-0569 Telephone: 907-279-0025 Fax: 907-279-9748

www.AlaskanChurch.org E-Mail: BishopNikolai@gci.net

February 22, 2003

Representative Bob Lynn
Alaska State Legislature
Via Fax - 907-269-0207

To whom it may concern:

I am writing in support of proposed House Bill 92 which would add clergy to the list of mandated reporters of actual or suspected child abuse. I believe this bill will not only protect the public safety of our children, but will also maintain the integrity of religious groups throughout Alaska.

Sincerely,

+ Bishop Nikolai

NIKOLAI

Bishop of Sitka, Anchorage and Alaska

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February 27, 2003

Representative Bob Lynn
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Lynn:

I am writing this letter in support of HB 92, a bill adding clergy to the list of mandated reporters of suspected or actual child abuse or neglect. Mandated reporting serves to help protect the safety of children and gives children the message that adults want them to be safe and will make efforts to ensure their safety.

As a member of the Alaska Network on Domestic Violence and Sexual Assault, the Executive Director of the Network, Lauree Hugonin, is available to provide testimony on this bill as needed.

Thank you for your work on behalf of Alaska's children, as we work together to end violence in the lives of those impacted by domestic violence and sexual assault.

Sincerely,

Saralyn Tabachnick
Executive Director



MAR 03 2003

Vincent J. Doran
No. 411 Pioneers' Home
923 West Eleventh Avenue
Anchorage, AK 99501-4390
1 907 272 5262

February 26, 2003

Representative Bob Lynn
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Lynn:

Thank you for sponsoring House Bill 92. The measure, if passed into law, will certainly strengthen the statute on child protection.

Members of the clergy must do their part by reporting instances of sexual abuse of children when they learn of them.

Cordially,

Vincent



Episcopal Diocese of Alaska

1205 Denali Way
Fairbanks, AK 99701-4137

(907) 452 - 3040
(907) 456 - 6552 (Fax)

March 3, 2003

Rep. Robert Lynn
Alaska State Legislature
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Rep. Lynn:

Thank you for your letter of February 19, regarding HB 92 which adds clergy to the list of mandated reporters of actual or suspected child abuse. Enclosed you will find a copy of the diocesan Safe Church Program manual. On pages 4 and 5 you will note that we already instruct clergy and lay leaders to notify authorities in such cases.

I am pleased to support your proposed legislation. When it is scheduled for committee, I would be willing to provide testimony on behalf of the bill.

Sincerely,

The Rt. Rev. Mark L. MacDonald
7th Bishop of Alaska

MLM/clf

Enclosure (1)

Memorandum

To: Rep. Bruce Weyhrauch, Chairman, State Affairs
From: Cynthia Lamb Faust, Episcopal Diocese of Alaska
Date: 06 March 2003

Re: HB 92

I am Cynthia Lamb Faust, Safe Church Program Consultant. I am representing The Rt. Rev. Mark MacDonald, bishop of The Episcopal Diocese of Alaska, speaking in support of HB 92.

For over 10 years the Episcopal Church in the U.S.A. has required that every diocese develop and implement a program to prevent sexual misconduct on the part of clergy and church leaders. In the Diocese of Alaska, part of the Safe Church Program includes an 8-hour training for clergy and laity, and deals directly with sexual abuse of children, elders, and the disabled. Our manual states:

Sexual misconduct is more about the misuse of power than it is about sex. In relationships of trust, with children or adults, church leaders must use great care to avoid taking advantage of or abusing their power so they do not betray God's image in themselves and others, becoming reckless bullies. It is the responsibility of every church leader to keep a clear boundary between conduct that is trustworthy and misconduct. Keeping this high standard is always the responsibility of the minister or leader.

Sexual abuse is sexual involvement or contact by a person with a minor, an elder, a disabled person or someone who may not be legally competent to give consent. Abuse of power especially hurts children and those too weak to defend themselves. Children are not able to give consent to sexual activity because they don't and can't understand everything involved in what they are being asked to do and what it will do to them. Therefore, even if they "go along" with what the older and more powerful abuser wants, children cannot be considered capable of true "consent."

...The Gospel shows Jesus always takes the side of children and the weak against those who misuse their power to hurt others. The Church forbids this behavior. It is also a criminal offense, to be reported to law enforcement officials. If you suspect or are aware that a child, elder, or disabled person, is being abused and it is within your ability, seek to protect them from further harm. Contact the nearest office of the Division of Family and Youth Services and/or the Alaska State Troopers or police and report it. If the abuser is a church leader, notify the bishop immediately.

Safe Church Program Manual, pp. 4-5

Rep. Bruce Weyhrauch
06 March 2003
Re: HB 92

In regard to the question about confession, while I cannot speak to the legalities regarding the confessional seal, I can tell you that we do discuss this issue with clergy. If they suspect someone may be on the point of disclosure, they are to let them know about the Safe Church Program and the instruction to report. If a disclosure is made in a confessional setting, clergy have the option of withholding absolution until the penitent turns himself or herself in.

Thank you.

Subject: HB 92 info requested

Date: Wed, 12 Mar 2003 09:48:24 -0900

From: "Gibbens, Joanne" <Joanne_Gibbens@health.state.ak.us>

To: "Ginny Austerman (E-mail)" <Ginny_Austerman@legis.state.ak.us>

CC: "Lesmann, Michael" <Michael_Lesmann@health.state.ak.us>

Ginny - at the last State Affairs Committee hearing on HB 92, Rep. Gruenberg asked me for information on a couple of issues. I have attached a link to a document that summarizes all the state laws that pertain to clergy as mandated reporters. Please let me know if the link worked or not so you can access the document.

<http://www.calib.com/nccanch/pubs/readref/mandclergy.pdf>

Also, Representative Gruenberg had two additional questions for me - one was how other states that have clergy as mandated reporters deal with faiths like the Quakers who don't have what is generally considered as clergy. I have queried other states regarding their definition of clergy as it relates to mandated reporting - here are the responses I've received to date - the one from Vermont might be the most helpful:

Vermont:

This is from their proposed bill:

(12) "Member of the clergy" means a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner.

Maryland law contains this language - "A minister of the gospel, clergyman, or priest of an established church of any denomination is not required to provide notice" (meaning make a report) if "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 the minister, clergyman, or priest is bound to maintain the confidentiality of that communication under cannon law, church doctrine, or practice".

Minnesota law provides the following on clergy:

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

A couple of other states that I have heard from have no definition for clergy. I would like to point out that it appears that the term "religious practitioner" in HB 92 may cover quite a broad group of individuals. That, however, would be a question for the Dept. of Law.

The other question from Rep. Gruenberg was whether any other mandated reporters were expected to go back 10 years and report any known or suspected sexual abuse they were aware of before they became mandated reporters. I have discussed this with the Department of Law. Their initial response was probably not, but, in order to be certain someone would have to go back through the previous session laws and research the issue, which could take some time - this could be conducted by legislative audit for the representative if he wants the research done, or the DFYS could request the Dept. of Law.

Please let me know if you have any questions - thanks

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HB 92 List of names read by Rep. Lynn

Mr Robert Hint

Exec. Director Alaska Catholic Conference
Represents position of Archbishop Sweitz of Anchorage,
Bishop Kettler of Fairbanks &
Bishop Warfel of Juneau

Gunny - I need
to verify the
spelling

Pastor John Hunn

Right Rev Mark MacDonald

Bishop of the Episcopal Diocese of AK in Fairbanks

Right Rev. Bishop NIKOLAI

Russian Orthodox Diocese of Sitka & AK

Saralyn Tabachnick

Exec. Director of "AWARE"

OR Aiding Women in Abuse & Rape Emergencies"

Dr. Jerry Prevo

Anchorage Baptist Temple

Gary Waterhouse pastor of Seventh-Day-Adventist
Church & Vice-president of the Northwest
Religious Liberty Conference.

Alaska State Legislature



Chair
Military and Veterans Affairs Committee

Vice-Chair
Labor and Commerce Committee

Member
Resources Committee
State Affairs Committee
Joint Armed Services Committee

Finance Subcommittees
House Environmental Conservation
House Military & Veterans' Affairs
House Court System

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

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February 24, 2003

To: Representative Bruce Weyhrauch, Chairman
State Affairs Committee

Fr: Representative Bob Lynn *BL*

Re: Scheduling of HB 92
"An Act relating to reports by members of the clergy and custodians of clerical records who have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect."

Please schedule HB 92 to be heard before the State Affairs Committee as soon as your calendar allows it. Thank you.