

## **CONFIDENTIAL INFORMATION IMPARTED TO THE CLERGY**

1. It is the historic obligation of the members of the clergy of the Anglican Church of Canada to regard as a sacred trust all confidential information imparted to them either under the seal of the confessional or revealed to them in their capacity as pastors.
2. However, in certain circumstances, this historic obligation of confidentiality is subject to specific legislation in many jurisdictions.
3. It is also subject to the obligation to give evidence under compulsion of a court of law or other legally authorized body.
4. The priest/penitent relationship enjoys no privilege under the various federal and provincial Evidence Acts except for Newfoundland and Quebec. The general rule of law is that a person testifying in a court or other tribunal is required to answer all questions relating to confidential information. A person who refuses to testify is in contempt and could be penalized accordingly.
5. A priest compelled to testify must always have in mind the historic obligation of confidentiality and should declare that obligation to the tribunal. If the priest is requested to break this obligation, the judge should decide whether compelling disclosure of the communication would be a greater benefit in the administration of justice than excusing the priest from testifying.
6. If the judge requires that the priest so testify, the priest should seek permission to consult the diocesan and chancellor and to be represented by legal counsel.
7. There are a number of other circumstances where the sacred obligation of confidentiality imposes a serious moral dilemma for the priest concerned. On these occasions the priest ought to consult with his or her diocesan and chancellor.

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Family Services Act  
PART III  
PROTECTION SERVICES

- 30 (1) Any person who has information causing him to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill-treated or otherwise abused shall inform the Minister of the situation without delay.

- 30 (2) Subsection (1) applies notwithstanding that the person has acquired the information through the discharge of his duties or within a confidential relationship, but nothing in this subsection abrogates any privilege that may exist because of the relationship between a solicitor and the solicitor's client.
- 30 (3) Any professional person who fails to comply with subsection (1) having acquired the information referred to in subsection (1) in the discharge of his professional responsibilities commits an offence.
- 30 (4) Where the Minister has reasonable grounds to suspect that any person has failed to comply with subsection (1), the Minister may, in addition to any action he may take with respect to prosecution, require any professional society, association or other organization authorized under the laws of the Province to regulate the professional activities of the person to cause an investigation to be made into the matter.
- 30 (5) No action lies, in relation to the giving of information under subsection (1), against a person who in good faith complies therewith.
- 30 (6) Except in the course of judicial proceedings, no person shall reveal the identity of a person who has given information under subsection (1) without that person's written consent.
- 30 (7) Any person who violates subsection (6) commits an offence.
- 30 (8) Upon completion of any investigation undertaken by the Minister as a result of any information provided by any person, the Minister may so advise the person who provided the information, and shall inform
- (a) the parent;
  - (b) any person identified during the investigation as a person neglecting or ill-treating the child; and
  - (c) the child, if in the opinion of the Minister he is capable of understanding, as to the findings and conclusions drawn by the Minister.
- 30 (9) Notwithstanding the Evidence Act, a spouse may be compelled to testify as a witness in the course of judicial proceedings brought against his spouse under this Act with respect to abuse or neglect of a child or an adult.
- 30 (10) For the purposes of subsection (3) "professional person" means a physician, nurse, dentist or other health or mental health professional, a hospital administrator, a school principal, school teacher or other teaching professional, a social work administrator, social worker or other social service professional, a child care worker in any day care center or child caring institution, a police or law enforcement officer, a psychologist, a guidance counsellor, or a recreational services administrator or worker, and includes any other person who by virtue of his employment or occupation has a responsibility to discharge a duty of care towards a child.

[CHAPTER F-2.2, Family Services Act, Province of New Brunswick](#)