

**SEXUAL ABUSE POLICY  
OF THE  
ARCHBISHOPRY OF PHILADELPHIA**

**ПОЗИЦІЯ  
ФІЛАДЕЛЬФІЙСЬКОЇ  
АРХИЄПАРХІЇ  
ЩОДО СЕКСУАЛЬНИХ  
ЗЛОВЖИВАНЬ**

December, 2014

грудня 2014 р.

SEXUAL ABUSE POLICY OF THE ARCHBISHOPRY OF PHILADELPHIA<sup>1</sup>

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<sup>1</sup> revised December 2014

## INTRODUCTION

It is the intention of the Archeparchy of Philadelphia to update and expand existing procedures in order to prevent sexual abuse of minors by personnel and invited guests of the Archeparchy of Philadelphia and any resulting harm to the victim and to others. This document represents a further development of policy procedures issued in 1992. This Policy details the Archeparchy of Philadelphia's response in those unfortunate situations when allegations of abuse do occur. The goal is to do all that is needed to address the allegation or crime and be a source of healing to those in need.

This Policy serves to

- a) Strengthen the screening procedures toward the prevention of sexual abuse of a minor by Archieparchial personnel.
- b) Address reporting requirements to Civil and Archieparchial/Ecclesiastical authorities.
- c) Address the spiritual, physical and emotional care of the minor and the family as well as the affected community.
- d) Address the physical and emotional care of the individual against whom the charge was made.
- e) Address other actions to be taken when the sexual abuse of a minor is alleged.

## DEFINITIONS

- a) **Minor:** Any person under the age of eighteen (**18**) is considered a minor under sexual abuse laws. A vulnerable person over the age of eighteen (18) is also covered by the law when such a person is unable or unlikely to report abuse without assistance because of impairment due to physical, mental or emotional status.
- b) **Archieparchial Personnel:** Includes priests, deacons, religious, lay employees, lay volunteers or contract workers who have contact with children while working in the Archeparchy of Philadelphia.
- c) **Administrative Leave:** Person accused is being relieved of their office/position and duties pending further notice.

Abuse may consist of any of the following:

- d) **Sexual Abuse:** Any act which involves sexual molestation or sexual exploitation of a child by a parent or any other person who has permanent care, temporary care, custody or responsibility for supervision of a minor, whether physical injuries are sustained or not. Sexual abuse includes acts of incest, rape or sexual offense in any degree, sodomy, any unnatural or perverted sexual practices, lewd or indecent acts/proposals, permitting or encouraging a minor to participate in acts of prostitution or pornography. **Sexual abuse of a minor also includes the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology. (Revised December 2014) <sup>2</sup>**
- e) **Physical Abuse:** Sustaining of a physical injury by a minor as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances which

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- indicate that a minor's health or welfare is harmed or threatened thereby.
- f) **Child Neglect:** Abandonment of a minor by a parent, custodian or guardian; lack of care or control in respect to subsistence, education, physical health or emotional health (excluding instances of financial inability to provide); refusal or inability to discharge parental or custodial obligations and expression of intention by parent, custodian, guardian or institution to discontinue care.

## **BACKGROUND CHECKS**

The following clergy, current employees and volunteers of the Archeparchy shall obtain and return to the Chancery a copy of their Criminal History Record:

- a) All priests, religious and deacons.
- b) All principals, assistant principals, teachers, contract workers, guidance counselors, librarians and staff (e.g. clerical, teacher aides, maintenance, security and food service) and all volunteers of Catholic schools operated by the Archeparchy or parish.
- c) All directors, coordinators, catechists and staff of religious education programs and all teachers of religious education.
- d) All persons providing child care services under the auspices of the Archeparchy and/or any parish, mission and/or other organizations which are subject under civil law and/or canon law to the administration, authority and/or governance of the Archeparchy.
- e) All youth ministers, directors and coaches of minor's activities (e.g. altar servers, sodalities, athletics, scout leaders, choir, etc.) and similar Archieparchial personnel having contact with minors and who provide such services under the auspices of the Archeparchy or any parish, mission or other organization which are subject under civil law and canon law to the administration, authority and/or governance of the Archeparchy.

In addition to the Criminal History record, an Information Questionnaire shall be required to be submitted. Protopresbyters are responsible to ensure that all clergy of their respective protopresbytery shall obtain the completed Criminal History Record and Information Questionnaire and submit these forms to the Chancellor. The Chancellor is in charge of compiling and maintaining all records.

Any male who applies for studies for the presbyterate or diaconate shall fill out the Information Questionnaire, provide a copy of their Criminal History and receive psychological testing in addition to the other requirements for acceptance into the appropriate programs of study.

Any priest, religious or deacon seeking incardination or residence in the Archeparchy is required to present the same documentation before being accepted for ministry.

All priests, religious, deacons and laypersons who are invited to preach and/or direct retreats, days of recollection, spiritual conferences, etc., will be required to have completed an Information Questionnaire and have submitted a Criminal History Record. These documents will be submitted to the Chancellor of the Archeparchy before approval to serve within the Archeparchy. Where a priest, religious or deacon assists consistently within the Archeparchy, these documents will be re-submitted annually.

All priests, religious and deacons who are invited to substitute in the Archeparchy in the event of a vacancy, annual leave or days off will be required to have completed an Information Questionnaire and have submitted a Criminal History Record. These documents will be submitted to the Chancellor of the Archeparchy before approval to serve within the Archeparchy. Where a priest, religious or deacon assists consistently within the Archeparchy, these documents will be re-submitted annually.

No pastor, parochial vicar or employee shall grant residence or employment until the proper documentation and proper background check has occurred, and after having sought and received written permission from the Metropolitan-Archbishop.

Each parish pastor and/or administrator is to ensure that

- the *Sexual Abuse Policy of the Archeparchy of Philadelphia*, and
- *Promise to Protect, Promise to Heal (Charter for the Protection of Children and Young People, the Essential Norms, and the Statement of Episcopal Commitment)*

are always available in the parish office for reference and distribution to all interested.

Each parish pastor and/or administrator is to ensure that sufficient copies of the Archieparchial *Victim Assistance Ministry* pamphlet are always available in the Church entrance, school offices, religious education facilities and parish halls.

All monasteries, retreat centers, and institutions under the jurisdiction of the Archeparchy are to insure that sufficient copies of the Archieparchial *Victim Assistance Ministry* pamphlet are available for reference and distribution to all interested.

**The Archeparchy has instituted a policy to renew background checks for all employees, volunteers, and clergy members every 7 years. (Revised December 2014)<sup>3</sup>**

## REPORTING

Any instance of known or suspected child abuse must be reported to the proper civil authority and the Designated Person of the Archeparchy. The individual reporting the instance need not furnish proof.

The information to be reported shall be:

- a) Name, address and age of the minor.
- b) Name and address of the minor's parents, custodian or guardian.
- c) The whereabouts of the minor.
- d) Nature, type and extent of the alleged abuse.
- e) Date(s) of occurrence and frequency.
- f) The name of the accused,
- f) Any other information.

The Archeparchy of Philadelphia is an interstate jurisdiction encompassing the Commonwealth of Pennsylvania, the State of New Jersey, the State of Delaware, the State of Maryland, the Commonwealth of Virginia and the District of Columbia. Please refer to the Addendum as to the particular Statute of each civil jurisdiction concerning this crime.

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<sup>3</sup> Revised December 2014

The concern of the Archeparchy of Philadelphia is the care and welfare of the abused. Also, the respect, dignity, and rights of the accused are to be upheld.

## **RESPONSE**

When an allegation of abuse has been made, an investigation shall be initiated. The Archeparchy has an obligation to assure that the minor is protected from the alleged abuser. Depending on the nature of the allegation, the accused may be removed from their assignment/position so that contact with minors will be restricted.

The following steps shall be taken after an allegation:

- a) The Archeparchy shall immediately report any and all allegations of abuse to the appropriate civil authority, i.e. law enforcement, social services, etc.
- b) The Archeparchy shall cooperate fully in the investigation of the allegation(s) conducted by the civil authorities and not interfere.
- c) The Archeparchy shall immediately implement a plan, in consultation with the investigating civil authorities, to ensure the safety of the victim and any other minors. This shall include putting any clergy or employee on administrative leave for the duration of the investigation.
- d) The Archeparchy shall request information from the civil authorities regarding the results of the investigation in order to make an informed decision regarding the clergy/employee.
- e) The Archeparchy shall clearly identify the personnel charged with assuring that a safety plan is implemented during the investigation, and that any recommendations resulting from the investigation by the civil authorities are reviewed and implemented as they pertain to the Archeparchy.
- f) The Archeparchy shall not enter into confidentiality agreements as part of any litigation or settlement related to the allegations of abuse by clergy or an employee.
- g) The Archeparchy shall provide affected parishes, schools or institutions with a standard statement that acknowledges that an allegation has been made.
- h) The Archeparchy shall notify other parishes, school or institutions where the accused has served in the past. This is important since more victims may be involved.
- i) The Archeparchy shall seek input from and consider the needs of the victim and the victim's family.
- j) To assure the rights of the accused, a statement shall be issued that states that the removal of accused is not a final determination of the allegations made.
- k) The Archeparchy shall assist the accused in restoring their reputation when an allegation is shown to be without foundation.

The role of the Metropolitan-Archbishop is a critical role in situations involving the victim and the accused. His role is to reach out to the victim(s), the victim's families and the faith community in providing support and compassion. He is also to ensure the clergy and employees of the Archeparchy that they are held accountable for their actions that violate the moral laws of the Church as well as civil law.

- a) The Metropolitan-Archbishop shall offer to meet personally with the victim and the victim's family in a place that is mutually agreeable.
- b) The Metropolitan-Archbishop shall take personal responsibility for the

protection of minors.

- c) The Metropolitan-Archbishop shall assure that all clergy and employees are informed of the policies of the Archeparchy regarding sexual abuse of a minor and are adequately trained in the policies.
- d) The Metropolitan-Archbishop shall assure that both victims and the accused receive appropriate treatment from qualified providers. If a victim chooses to obtain treatment independent of what the Archeparchy is providing, it will be respected and supported.
- e) The Metropolitan-Archbishop shall insure that the clergy and employees have their legal rights respected and protected.
- f) The Metropolitan-Archbishop shall assure that seminarians are adequately prepared for and understand the responsibility of protecting minors.
- g) The Metropolitan-Archbishop shall assure that no transfer of an accused cleric into or out of the Archeparchy shall take place if an alleged abuse has been confirmed or while an investigation is taking place. In the event an allegation is not confirmed and the cleric desires a transfer to another eparchy (diocese, religious order), a record of allegations shall be made available. This record shall be maintained for ten (10) years and kept in outline form for perpetuity.

## **REVIEW BOARD**

The Review Board is a predominantly lay board composed of people appointed by the Metropolitan-Archbishop to serve in a consultative and advisory capacity. The final decision authority resides exclusively with the Metropolitan-Archbishop.

### **BOARD FUNCTION:**

The function of the Review Board is as follows:

- a) To assess the credibility of an allegation(s) concerning the sexual abuse of a minor that has been made against a cleric, religious, employee or volunteer of the Archeparchy, and to advise the Metropolitan-Archbishop of its findings and conclusions.
- b) To monitor, in each particular case, allegations of sexual abuse of minors that have been made against a cleric, religious, employee or volunteer in order to insure that this policy is being fulfilled.
- c) To review this policy and its procedures and to provide the Metropolitan-Archbishop with its recommendations for any modifications.
- d) To make recommendations concerning the continuation of ministry or service of priests, deacons, seminarians, religious or anyone else who has a canonical appointment or office by the Metropolitan-Archbishop, and against whom a credible allegation of sexual abuse of a minor has been made.
- e) In regard to lay persons, the Review Board will not make recommendations as to whether a violation of this policy has been established. In such a case, an administrative decision will be made regarding the removal of the accused in accord with existing personnel policies within the Archeparchy. A report of the administrative action will be provided to the Review Board so it may monitor the compliance with this policy.

## MEMBERSHIP:

The Review Board shall be composed of six (6) members. The Protosyncellus, Vicar for Clergy, Vicar for Religious and the Promoter of Justice are not members but may attend meetings as observers.

### Members:

- a) Shall be Catholics in communion with the Church.
- b) Will not be employees of the Archeparchy except for clergy.
- c) Will not be members of the Review Board and members of the Response Personnel at the same time.
- d) At least one (1) member shall be from among the clergy from the Archeparchy.
- e) Will be appointed by the Metropolitan-Archbishop and not receive compensation. They may be reimbursed for necessary expenses.
- f) Will be appointed to serve for a term of five (5) years. In the event of resignation, withdrawal or dismissal, a successor will be appointed.
- g) Terms may be staggered with no more than three (3) member's terms expiring in any given year. Three (3) members shall initially be appointed for four (4) years and three (3) members for five (5) years.
- h) Will not be appointed for more than two (2) consecutive terms.
- i) In the event of a vacancy, the Metropolitan-Archbishop shall invite the Consultors and Deans of the Archeparchy to nominate a candidate for appointment by the Metropolitan-Archbishop. The nomination shall include a resume of their qualifications and competencies.

## ADMINISTRATION:

The Review Board shall elect from among them a Chair, Vice-Chair and a Secretary. The term of each office will be for one (1) year and there is no limit on the number of terms a member may serve.

The Chair will convene and preside at all meetings of the Review Board. In the event that the Chair is hindered, the Vice-Chair will serve the function of Chair. The Secretary is responsible for all communication, notices and reports.

**The Review Board will meet on an annual basis to review the policies and procedures of the Archeparchy as well as to review any matters related to the allegations of abuse. (Revised December 2014)<sup>4</sup>**

Four members (4) including the Chair and/or Vice-Chair will constitute a quorum. Four (4) votes of concurrence will be necessary for a recommendation.

All Review Board members and observers will be held to the rule of confidentiality with regard to all deliberations and information.

Records will be maintained in accord with civil and canon law.

## AUTHORITY:

The Review Board is authorized to:

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<sup>4</sup> Revised December 2014

- a) Receive and review the report of the preliminary investigation of the allegation.
- b) Receive and review the investigation's final report, supporting documents and any pertinent evidence.
- c) Direct further investigations and/or conduct investigations.
- d) Choose the investigator.
- e) Request those necessary for its deliberations: experts and consultants, the person alleging the crime and the accused.
- f) Report to the Protosyncellus its findings.
- g) Assess whether the policy is maintained and adhered to.
- h) Conduct a bi-annual review and submit a report to the Metropolitan-Archbishop.
- i) To make recommendations to the Metropolitan-Archbishop that further protects minors.

## **CANONICAL PROCEDURE**

In the event an allegation has been made against a priest or deacon of the Archeparchy, the procedure as outlined in the Canon Law Society of America handbook *Guide To The Implementation of the U.S. Bishop's Essential Norms For Diocesan/Eparchial Policies Dealing With Allegations of Sexual Abuse of Minors By Priests Or Deacons* shall be maintained and followed. In the event of a Canonical Trial, Title XXVIII, the Procedure for Imposing Penalties as found in the *Code of Canons of the Eastern Churches (cc. 1468-1487)* shall be adhered to as are the Norms published by the Congregation for the Doctrine of the Faith for those cases reserved to that particular Dicastery.

Any changes to the *Charter for the Protection of Children and Young People* and to the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse for Minors by Priests or Deacons*, which are approved by the United States Conference of Catholic Bishops supercede this *Sexual Abuse Policy of the Archeparchy of Philadelphia*.



## ПОЗИТІЯ ФТ.ІТАЛ ЕЛЬФІЙСЬКОЇ АРХИЄПАРХІЇ ПТОДО СЕКСУАЛЬНИХ ЗЛОВЖИВАНЬ

### ВСТУП

Наміром Філадельфійської Архиепархії є осучаснити й розширити існуючу процедуру, з метою попередити сексуальні зловживання щодо неповнолітніх з боку персоналу й гостей, запрошених Філадельфійською Архиепархією, а також нанесення внаслідок цього кривд жертвам і їх близьким. Цей документ є подальшим розвитком положень процедури, прийнятої у 1992 році. Ці положення деталізують реагування Філадельфійської Архиепархії у таких прикрих ситуаціях, коли була зроблена заява про зловживання. Метою є: зробити все необхідне для реагування на заяву (оскарження) чи злочин і стати джерелом оздоровлення для тих, хто цього потребує.

Ці положення будуть служити:

- а) зміцненню порядку перевірки стосовно попередження сексуальних зловживань щодо неповнолітніх персоналом Архиепархії;
- б) спрямуванню поданих вимог до цивільних і архиепархіальних/ церковних службовців;
- в) здійсненню духовної, фізичної й емоційної опіки над неповнолітніми і їх сім'ями, а також над ураженими спільнотами;
- г) спрямуванню фізичного й емоційного піклування на осіб, проти яких були висунуті звинувачення (оскарження);
- д) вибору інших дій, які треба здійснити у випадку, коли сексуальне зловживання щодо неповнолітніх ще не доведене.

### ВИЗНАЧЕННЯ

- а) **Неповнолітній:** згідно з законом про сексуальне зловживання, будь-яка особа до вісімнадцяти (18) років, вважається неповнолітньою. Вразлива особа старша вісімнадцяти (18) років також є захищена цим законом, коли така особа не здатна, чи є сумнівним, щоб могла повідомити про зловживання без сторонньої допомоги через порушення, обумовлені фізичним, розумовим чи емоційним станом.
- б) **Персонал Архиепархії:** включає священників, дияконів, посвячених осіб, світських працівників, світських добровольців чи контрактних працівників, які, працюючи в Філадельфійській Архиепархії, мають контакти з дітьми.
- в) **Адміністративне вилучення:** обвинувачена особа звільняється зі своєї посади і від своїх обов'язків, до наступних повідомлень.

Видано: вересень 2003 р

Зловживанням вважається наступне:

- г) **Сексуальне зловживання:** будь-яка дія, що містить в собі сексуальне зачіпання (доторки) чи сексуальне використання дітей батьками, будь-якою особою, що має постійний нагляд, тимчасовий догляд, опіку чи відповідає за нагляд за неповнолітніми, незалежно від того чи фізичне ушкодження мало місце, чи ні. Сексуальне зловживання включає акти кровозмішання (інцесту), згвалтування чи нападу будь-якої тяжкості, содомію, різні неприродні чи викривлені статеві практики, розпусну чи непристойну пропозицію, допущення чи заохочення

неповнолітніх до проституції чи порнографії. **Sexual abuse of a minor also includes the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology. (Revised December 2014)**

г) **Фізична жорстокість:** підтвердження фізичного ушкодження неповнолітнього як результат жорстокого чи нелюдського поводження, чи зловмисної дії за обставин, які свідчать, що здоров'я чи добробут неповнолітнього в небезпеці, або йому щось загрожує.

д) **Нехтування дитиною:** занедбання неповнолітнього батьками, опікунами чи захисниками, позбавлення його уваги чи контролю над засобами до існування, освіти, фізичного чи емоційного здоров'я (виключаючи випадки фінансової неспроможності забезпечення); відмова чи неможливість виконувати батьківські чи опікунські обов'язки і висловлення наміру батьками, охоронцями, опікунами чи установами припинити опіку.

## ПЕРЕВІРКА МИНУЛОГО

Такі священники, працівники й добровольці в Архиепархії мають одержати й повернути до канцелярії копію Кримінальної історії:

- а) усі священники, посвячені особи й диякони;
- б) усі директори, заступники директорів, вчителі, контрактні працівники, вихователі, бібліотекарі й працівники (наприклад, духовенство й асистенти вчителів, господарники, охоронці й робітники в їдальні) усі добровольці в католицьких школах, якими керує Архиепархія чи парафії;
- в) усі директори, координатори, катехити й персонал релігійно-навчальних програм, вчителі релігійного навчання;
- г) увесь персонал, який здійснює догляд за дітьми під патронатом Архиепархії, або/ чи парафії, місії або/ чи інших організацій, які є об'єктом цивільного чи канонічного права щодо адміністрування, компетенції, або/ чи підпорядковуються Архиепархії;
- г) усі молодіжні керівники, директори й тренери різних видів діяльності неповнолітніх (вівтарних дружин, марійських дружин, спортивних секцій, скаутів, хорів тощо) і відповідний персонал Архиепархії, який має контакт з неповнолітніми й проводить таку роботу під патронатом Архиепархії чи якоїсь парафії, місії чи організації, яка є об'єктом цивільного права і канонічного права стосовно адміністрування, компетенції або/ чи підпорядковується Архиепархії.

На додаток до Кримінальної історії, необхідно підготувати і роздати "Інформативний запитальник". Протопресвітери (декани) є відповідальними за те, щоб усі священники їхнього деканату отримали свою Кримінальну історію, заповнили "Інформативний запитальник" і передали їх Канцлеру Архиепархії. Відповідальним за їх облік і зберігання буде єдина особа - Канцлер.

Будь-який чоловік, який звернеться по аплікацію на навчання на священника чи диякона буде зобов'язаний заповнити "Інформативний запитальник", подати копію своєї Кримінальної історії і пройти психологічне обстеження на додаток до інших приписів для прийняття на відповідні програми навчання.

Будь-якому священикові, посвяченій особі чи дияконіві, який звертається за інкардинацією чи дозволом на перебуванням в межах Архиепархії, приписується подавати ті самі документи, перш ніж він буде прийнятий до служіння.

Усім священикам, посвяченим особам, дияконам і світським особам, яких будуть запрошувати для проповідування або/ чи провадження відпустами, реколекціями, духовними конференціями тощо, приписується заповнювати “Інформативний запитальник” і подавати Кримінальну історію. Ці документи мають бути подані Канцлерові Архиепархії перед наданням згоди на служіння в межах Архиепархії. Там, де священики, посвячені особи й диякони асистують послідовно-періодично в межах Архиепархії, ці документи будуть поновно подаватися на розгляд щорічно.

Усі священики, посвячені особи й диякони, яких запрошується на заміну в Архиепархії на час вакансії, щорічних відпусток чи вихідних днів, будуть мусили заповнювати “Інформативний запитальник” і подавати свою Кримінальну історію. Ці документи будуть подаватися до Канцлера Архиепархії перед отриманням дозволу на служіння в межах Архиепархії. Де священики, посвячені особи, диякони послідовно-періодично асистують в межах Архиепархії, ці документи будуть поновлюватися щорічно.

Ні священик, ні парафіяльний вікарій, ні працівник не мають права надати місця для перебування, чи праці особі, поки вона не виповнить правильно документи і поки її минуле не буде детально досліджене. Тільки після цього, той, хто хоче надати роботу чи місце для перебування іншій особі, зобов’язаний звернутися за письмовим дозволом до Митрополита-Архиепископа.

Кожен парафіяльний священик і/ чи адміністратор повинен бути впевнений, що документи:

“Позиція Філадельфійської Архиепарії щодо сексуальних зловживань” і  
“Promise to Protect, Promise to Heal” (“Charter for the Protection of Children and Young People”, “Essential Norms” і “Statement of Episcopal Commitment”)

постійно доступні в усіх парафіяльних канцеляріях для ознайомлення і роздачі зацікавленим.

Кожен парафіяльний священик і/ чи адміністратор повинен бути впевнений, що достатня кількість копій Архиепархіальної брошури “Служби допомоги скривдженим” доступна при вході в церкву, в канцелярії школи, приміщеннях для релігійної освіти, парафіяльних залах.

Усі монастирі, відпустові центри й інституції під юрисдикцією Архиепархії мусять бути впевнені, що необхідна кількість копій Архиепархіальної брошури “Служби допомоги скривдженим” доступна для ознайомлення й роздачі всім зацікавленим.

**The Archeparchy has instituted a policy to renew background checks for all employees, volunteers, and clergy members every 7 years. (Revised December 2014)<sup>5</sup>**

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<sup>5</sup> Revised грудня 2014

## ЗАЯВЛЕНИЙ (ОСКАРЖЕННЯ)

Будь-який випадок відомого, чи підозрюваного зловживання стосовно неповнолітнього повинен бути заявлений відповідній цивільній владі і призначеній Архиепархії відповідальній особі. Особа, яка зробила заяву, не повинна подавати докази.

Інформація, яку повідомляється:

- а) ім'я, адреса й вік неповнолітнього;
- б) ім'я й адреса батьків, охоронців чи опікунів неповнолітнього;
- в) місцеперебування неповнолітнього;
- г) природа, вид і міра заявленого зловживання (розбещення);
- г) дата(и) випадку і частота;
- д) ім'я обвинуваченого;
- е) інша інформація.

В юрисдикції Філадельфійської Архиепархії знаходяться штати: Пенсільванія, Нью Джерсі, Делавар, Меріленд, Вірджинія й Округ Колумбія. Просимо звертатися до “Додатку” - до відповідного Закону цивільної влади кожного окремого штату чи округу, стосовно конкретного злочину.

Турботою Філадельфійської Архиепархії є опіка і добро скривдженого. А також те, щоб достоїнство і права оскарженого не були порушені, а відповідно захищені.

## РЕАГУВАННЯ

Коли заява про зловживання зроблена, повинно бути ініційоване слідство. Архиепархія зобов'язана впевнитися, що неповнолітній є захищений від заявленого кривдника. В залежності від природи заподіяної кривди, звинувачений може бути усунений від посади і виконання своїх обов'язків, так щоб контакт з неповнолітнім став неможливим.

Після заявлення (оскарження) будуть зроблені наступні кроки:

- а) Архиепархія відразу має повідомити про будь-які і всі заяви про зловживання відповідній цивільній владі, тобто адміністративній владі, соціальній службі тощо;
- б) Архиепархія буде повністю співпрацювати з цивільною владою в проведенні слідства щодо зловживання, але не буде перешкоджати його ходу;
- в) Архиепархія, після консультування зі слідчою цивільною владою, терміново впровадить заходи, щоб впевнитися у безпеці скривдженого та інших неповнолітніх. Це включає адміністративне увільнення від роботи духовної особи чи працівника на час проведення слідства;
- г) Архиепархія буде вимагати інформацію від цивільної влади стосовно результатів слідства, щоб мати змогу прийняти обґрунтоване рішення стосовно священика чи працівника;
- г) Архиепархія мусить чітко визначити персонал, відповідальний за реалізацію плану безпеки під час слідства, і за те, щоб рекомендації, які випливають зі слідства цивільної влади, перевірялися й виконувалися на стільки, на скільки вони мають стосунок до Архиепархії;
- д) Архиепархія не буде вступати в конфіденційні домовленості, як частину будь-якого позову чи врегулювання, що стосуються заяви про зловживання священика чи працівника;

- е) Архиепархія повідомить потерпілі парафії, школи чи інституції стандартною заявою, якою підтвердить факт подання заяви;
- є) Архиепархія повідомить інші парафії, школи чи інституції, де обвинувачений служив раніше. Це важливо, бо можуть виявитися й інші скривджені;
- ж) Архиепархія буде вживати заходів для отримання інформації і розглядати потреби скривджених і їх сімей;
- з) Для забезпечення прав підозрюваного, буде дана заява, в якій повідомлятиметься, що його усунення в результаті оскарження не означає визнання його винним;
- и) Архиепархія допоможе безпідставно оскарженому у підновленні його репутації, якщо буде доведено, що заява була зроблена голослівно (безпідставно).

У складній ситуації, в якій задіяні жертва й оскаржений, роль Митрополита-Архиєпископа є вирішальною. Вона полягає в тому, щоб навести контакт з жертвою(ами), їхніми сім'ями і громадами вірних, для надання їм допомоги й підтримки. Він також повинен ствердити духовенству й працівникам Архиепархії, що вони несуть особисту відповідальність за свої дії, які порушують моральний закон Церкви так само як і цивільний.

- а) Митрополит-Архиєпископ пропонує жертвам і їх сім'ям зустрітися особисто у взаємопогодженому місці.
- б) Митрополит-Архиєпископ особисто відповідає за безпеку неповнолітніх.
- в) Митрополит-Архиєпископ упевнюється, що все духовенство і працівники поінформовані про позицію архиепархії стосовно сексуальних зловживань щодо неповнолітніх і ознайомлені з даними положеннями.
- г) Митрополит-Архиєпископ повинен гарантувати, що і жертва, і звинувачений отримують відповідне лікування від кваліфікованих спеціалістів. Якщо скривджений обере лікування відмінне від того, що його запропонує Архиепархія, це буде прийняте й підтримане зі зрозумінням.
- г) Митрополит-Архиєпископ забезпечує непорушність і захист законних прав духовної особи чи працівника.
- д) Митрополит-Архиєпископ повинен бути впевнений, що семінаристи відповідно підготовлені та розуміють свою відповідальність за захист неповнолітніх.
- е) Митрополит-Архиєпископ пильнує, щоб не відбулося переведення звинуваченого священика в межах, чи поза межі Архиепархії, якщо ствердження про зловживання було підтвержене, або поки проходить слідство. У випадку, коли звинувачення не підтверджується і духовна особа вирішує перевестися в іншу єпархію (діоцезію, чин), звіт про заявлення (оскарження) повинен стати доступним. Цей звіт повинен повністю зберігатися протягом десяти (10) років і залишатися в інформативній формі безстроково.

## **НАГЛЯДОВА КОЛЕГІЯ**

Наглядова колегія, переважно світська, складається з осіб призначених Митрополитом-Архиєпископом для служіння в консультативній і дорадчій якості. Кінцеве рішення виносить виключно Митрополит-Архиєпископ.

### **ОБОВ'ЯЗКИ КОЛЕГІЇ**

В обов'язки колегії входить:

- а) оцінювати достовірність заявлення про сексуальне зловживання щодо неповнолітніх, які були подані проти духовенства, посвячених осіб, працівників чи добровольців Архиепархії і звітувати Митрополитові-Архиєпископові про відкриття

і висновки;

- б) наглядати за кожним окремим випадком заявлення про сексуальне зловживання щодо неповнолітніх, висунутим щодо духовенства, посвячених осіб, працівників і добровольців, щоб впевнитися, що умови даного положення виконуються;
- в) переглядати це положення і його процедуру, й давати Митрополитові-Архієпископові рекомендації, щодо будь-яких змін;
- г) давати рекомендації стосовно продовження служіння священників, дияконів, семінаристів, посвячених осіб чи будь-кого іншого, хто має канонічне призначення чи приписання від Митрополита-Архієпископа, і проти кого була висунуто звинувачення в сексуальному зловживанні щодо неповнолітнього;
- г) стосовно світських осіб: наглядова колегія не буде давати жодних рекомендацій щодо порушень, встановлених цим положенням. У цьому випадку будуть прийняті адміністративні рішення щодо усунення звинуваченого згідно з існуючими в Архієпархії правилами. Звіт про адміністративні заходи буде переданий Наглядовій колегії, щоб вона могла перевірити їх відповідність умовам даного положення.

### **ЧЛЕНСТВО:**

Наглядова колегія буде складатися з шести (6) осіб. Протосинклер, вікарій для духовенства, вікарій для посвячених осіб і промотор справедливості не будуть постійними членами, але можуть бути присутні на засіданнях як спостерігачі.

Члени:

- а) повинні бути католиками у сопричасті з Церквою;
- б) не повинні бути працівниками Архієпархії, за виключенням духовенства;
- в) не можуть бути членами Наглядової колегії і членами, відповідальними за реагування, одночасно;
- г) принаймні один (1) член колегії буде священник, який належить до Архієпархії;
- г) будуть призначатися Митрополитом-Архієпископом і не будуть отримувати жодної винагороди. їм можуть відшкодуватися необхідні витрати;
- д) будуть призначатися для служіння на п'ятирічний (5) термін. У випадку відмови, усунення чи вилучення, буде призначатися наступник;
- е) термін членства буде коливатися так, щоб не більше трьох (3) членів закінчували свою каденцію в одному році. Три (3) члени будуть призначатися спочатку на чотири (4) роки, а три (3) члени на п'ять (5) років;
- є) члени колегії не будуть призначатися більше як на два (2) послідовних терміни;
- ж) у випадку вакансії, Митрополит-Архієпископ може попросити консультантів чи деканів Архієпархії запропонувати кандидата для призначення Митрополитом-15 Архієпископом. Пропозиція повинна включати резюме про кваліфікацію й компетентність особи.

### **КЕРІВНИЦТВО:**

Наглядова колегія буде обирати споміж своїх членів Голову, Віце-голову й Секретаря. Обираються вони на термін один (1) рік і немає обмеження кількості термінів їх членства.

Голова скликає Наглядову колегію і головує на всіх її засіданнях. У випадку, коли Голова не може бути присутній, Віце-голова виконує його функції. Секретар відповідає за всі зв'язки, записи й звіти.

**The Review Board will meet on an annual basis to review the policies and procedures of**

**the Archeparchy as well as to review any matters related to the allegations of abuse. (Modified December 2014)<sup>6</sup>**

Чотири (4) члени колегії, включаючи Голову і/ чи Віце-голову, складають кворум. Чотири (4) голоси необхідні для погодження рекомендації.

Усі члени Наглядової колегії і спостерігачі будуть зобов'язані дотримуватися правил конфіденційності стосовно всіх обговорень і інформацій.

Звіти будуть зберігатися згідно з цивільним і канонічним правом.

**ПОВНОВАЖЕННЯ:**

Наглядова колегія уповноважена:

- а) отримувати й аналізувати звіти про попереднє слідство за заявою;
- б) отримувати й аналізувати заключний звіт про слідство, допоміжні документи та будь-які відповідні докази;
- в) скеровувати майбутні слідства або/чи керувати ними;
- г) обирати слідчих;
- г) запрошувати тих, які необхідні для прийняття рішень: експертів, консультантів, осіб, які заявили про злочин, і обвинувачених;
- д) звітувати протосинклеру про те, що виявлено;
- е) оцінювати, чи дотримано процедури;
- є) двічі на рік складати звіти і передавати їх на розгляд Митрополитові-Архієпископові;
- ж) давати рекомендації Митрополитові-Архієпископові стосовно подальшого захисту неповнолітніх.

**КАНОНІЧНА ПРОЦЕДУРА**

У випадку, коли заява зроблена проти священика чи диякона Архиепархії, слід, як зазначено в Canon Law Society of America, дотримуватися процедури викладеної в керівництві: “Guide to the Implementation of the US Bishops Essential Norms for Diocesan/ Eparchial Policies Dealing with Allegations of sexual Abuse of Minor by Priests or Deacons” (“Найголовніші норми діоцезіальної/ епархіальної політики стосовно заяв про сексуальні зловживання щодо неповнолітніх з боку священиків чи дияконів”). У випадку канонічного процесу, Титул XXVIII: Процедура накладання кар, за Кодексом Канонів Східних Церков (к. 1468-1487), слід дотримуватися норм опублікованих Конгрегацією у справах доктрини віри для випадків зарезервованих для окремих Дікастерій.

Будь-які зміни в “Charter for the protection of children and Young People” (“Хартії про захист дітей і молоді”), в “Essential Norm for Diocesan/ Eparchial Policies Dealing with Allegations of Sexual Abuse for Minors by Priests or Deacons”, які схвалені Конференцією Католицьких Єпископів Сполучених Штатів Америки, спричинять зміни у даному документі: “Позиція Філадельфійської Архиепархії щодо сексуальних зловживань”.

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<sup>6</sup> revised грудня 2014

# ADDENDUM

## State of Delaware

Del. Code Ann. Tit. 11, § 768 (1995 & Supp. 1998)

A person is guilty of unlawful sexual contact in the second degree when the person intentionally has sexual contact with another person who is less than 16 years of age or causes the victim to have sexual contact with the third person or a third person. Unlawful sexual contact in the second degree is a class G felony.

Delaware Code Ann. Tit. §770 (Supp. 1998)

A person is guilty of rape in the fourth degree when the person: (1) intentionally engages in sexual intercourse with another person, and the victim has not reached his or her sixteenth birthday; or (2) intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her eighteenth birthday, and the person is 30 years of age or older, except that such intercourse shall not be unlawful if the victim and person are married at the time of such intercourse; or (3) intentionally engages in sexual penetration with another person and the victim has not reached his or her sixteenth birthday; or (4) intentionally engages in sexual intercourse or sexual penetration with another person, and the victim has reached his or her sixteenth birthday but has not yet reached his or her eighteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child. Rape in the fourth degree is a class C felony.

Del. Code Ann. tit. 11, § 771 (Supp. 1998)

A person is guilty of rape in the third degree when the person: (1) intentionally engages in sexual intercourse with another person, and the victim has not reached his or her sixteenth birthday and the person is at least 10 years older than the victim, or the victim has not yet reached his or her fourteenth birthday and the person has reached his or her nineteenth birthday and is not otherwise subject to prosecution pursuant to this title; or (2) intentionally engages in sexual penetration with another person and the victim has not reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim. Rape in the third degree is a class B felony.

Del. Code Ann. tit. 11, § 772 (Supp. 1998)

A person is guilty of rape in the second degree when the person: intentionally engages in sexual penetration with another person and the victim has not yet reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or a dangerous instrument; or the victim has not yet reached his or her twelfth birthday, and the defendant has reached his or her eighteenth birthday; or the victim has not yet reached his or her sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child. Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted of rape in the second degree in violation of this section shall be 10 years. Rape in the second degree is a class B felony.

Del. Code Ann. tit. 11, § 773 (Supp. 1998)

A person is guilty of rape in the first degree when the person intentionally engages in sexual intercourse with another person and any of the following circumstances exist: (1) the victim has not yet reached his or her twelfth birthday, and the defendant has reached



his or her eighteenth birthday; or (2) the victim has not yet reached his or her sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child. Notwithstanding any law to the contrary, a person convicted of rape in the first degree shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if: (1) the victim had not yet reached his or her 16th birthday at the time of the offense and the person inflicts serious physical injury on the victim; or (2) the person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member or organ of the victim's body; or (3) the person is convicted of rape against 3 or more separate victims; or (4) the person has previously been convicted of unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States. Rape in the first degree is a class A felony.

### **REPORTING STATUTES: INDIVIDUAL RESPONSIBILITY**

Del. Code Ann. tit. 16, § 904 (1995)

Any report required to be made under this chapter shall be made to the Division of Child Protective Services of the Department of Services for Children, Youth and Their Families. An immediate oral report shall be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, shall be made in accordance with the rules and regulations of the Division of Child Protective Services, or in accordance with the rules and regulations adopted by the Division.

### **DEPARTMENT RESPONSIBILITY**

Del. Code Ann. tit. 16, § 905(a), (c), (d) (Supp. 1998)

The Division of Child Protective Services shall establish and maintain a 24-hour statewide toll-free telephone report line operating at all times and capable of receiving reports of alleged abuse and neglect from mandated reporters or from the public at large.

Although reports may be made anonymously, the Division shall in all cases, after obtaining relevant information regarding alleged abuse or neglect, request the name and address of any person making a report. Upon receipt of a report, the Division shall immediately communicate such report to its appropriate Division staff, after a check has been made with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, or any reports regarding any siblings, family members or the alleged perpetrator, and such information as may be contained from such previous reports. Such relevant information as may be contained in the information system shall also be forwarded to the appropriate Division staff.

Del. Code Ann. tit. 16, § 906(a), (b)(1)-(4), (13), (15) (WESTLAW through 1999 1st Spec. Sess.)

The child protection system shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations and/or family assessments in response to reports of child abuse or neglect. The system shall endeavor to coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

In implementing the child protection system, the Division shall:

- Receive and maintain reports pursuant to the provisions of statute;
- Forward reports to the appropriate Division staff, who shall determine, through the use of protocols developed by the Division, whether an investigation or the family

assessment and services approach should be used to respond to the allegation. The protocols for making this determination shall be developed by the Division and shall give priority to ensuring the well-being and safety of the child;

■The Division may investigate any report, but shall conduct an investigation involving all reports, which if true, would constitute violations against a child by those responsible for the care, custody and control of the child pursuant to the provisions of statute, or an attempt to commit any such crimes;

■When a written report is made by a person required to report, the Division shall contact the person who made such report within 48 hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, which may be pertinent;

■Multidisciplinary services shall be used whenever possible in conducting the investigation or family assessment and services approach, including the services of law enforcement agencies, the medical community, and other agencies, both public and private. The Division and the Attorney General's Office shall cooperate with law enforcement agencies and the Family Court to develop training programs to increase the ability of Division personnel, court personnel, and law enforcement officers to investigate suspected cases of abuse and neglect.

## **LAW ENFORCEMENT RESPONSIBILITY**

The Division staff shall also contact the appropriate law enforcement agency upon receipt of any report requiring an investigation under this section and shall provide such agency with a detailed description of the report received. The appropriate law enforcement agency shall assist the Division in the investigation or provide the Division, within a reasonable time, an explanation detailing the reasons why it is unable to assist. Notwithstanding any provision of the Delaware code to the contrary, to the extent the law enforcement agency with jurisdiction over the case is unable to assist, the Division may request that the Delaware State Police exercise jurisdiction over the case and upon such request the Delaware State Police may exercise such jurisdiction. The assisting law enforcement agency shall promptly conduct its own criminal investigation, and keep the Division regularly apprised of the status and findings of its investigation. Law enforcement agencies and the Division shall develop protocols to ensure compliance with this subsection.

## **District of Columbia**

D C. Code Ann. § 22-4108 (1996 & Supp. 1999)

Whoever, being at least 4 years older than a child, engages in a sexual act with that child or causes that child to engage in a sexual act shall be imprisoned for any term of years or life and, in addition may be fined an amount not to exceed \$250,000.

D C. Code Ann. § 22-4109 (1996 & Supp. 1999)

Whoever, being at least 4 years older than a child, engages in a sexual contact with that child or causes that child to engage in sexual contact shall be imprisoned for not more than 10 years and, in addition may be fined in an amount not to exceed \$100,000.

## **REPORTING STATUTES:**

D C. Code Ann. §4-1321.02 (WESTLAW through 10-2-01)

## **INDIVIDUAL RESPONSIBILITY**

Any mandated reporter who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or child shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department or the Child Protective Services Division of the Department of Human Services.

Whenever a mandated reporter is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such notification has been made does not relieve the person who was originally required to report from his or her duty of having the report made promptly to the Metropolitan Police Department or the Child Protective Services Division.

In addition to those persons who are required to report, any other person may make a report to the Metropolitan Police Department or the Child Protective Services Division.

## **LAW ENFORCEMENT RESPONSIBILITY**

In addition to the requirements above, any mental health professional, or a law enforcement officer, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child Protective Services Division that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity.

D C. Code Ann. §4-1321.03 (WESTLAW through 10-2-01) CONTENT OF REPORTS

Each person required to make a report of a known or suspected neglected child shall:

■ Immediately make an oral report of the case to the Child Protective Services Division; and

■ Make a written report of the case if requested by said Division or Police or if the abuse involves drug-related activity.

The report shall include, but need not be limited to, the following information, if it is known to the person making the report:

■ The name, age, sex, and address of the following individuals:

-The child who is the subject of the report;

-Each of the child's siblings; and

-Each of the child's parents or other persons responsible for the child's care;

■ The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;

■ All other information which the reporter believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse and neglect; and

■ If the source was required to report under the reporting laws, the identity and occupation of the source, how to contact the source and a statement of the action taken by the source concerning the child.

## **State of Maryland**

Md. Ann. Code art. 27, § 35C (Supp. 1998)

Abuse means sexual abuse of a child, whether physical injuries are sustained or not.

Child means any individual under the age of 18 years.

Family member means a relative of a child by blood, adoption, or marriage.

Household member means a person who lives with or is a regular presence in a home of a child at the time of the alleged abuse.

Sexual abuse means any act that involves sexual molestation or exploitation of a child by a 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. Sexual abuse includes, but is not limited to incest, rape, or sexual offense in any degree; sodomy; and unnatural or perverted sexual practices.

Md. Ann. Code art. 27, § 463 (1996)

A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person who is under 14 years of age and the person performing the act is at least four years older than the victim. Any person violating the provisions of this section is guilty of a felony.

Md. Ann. Code art. 27, § 464A (1996)

A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person under 14 years of age and the person performing the sexual act is four or more years older than the victim. Any person violating the provisions of this section is guilty of a felony.

## **REPORTING STATUTES:**

Md. Code Ann. Fam. Law § 5-704 (Lexis, WESTLAW through Reg. Sess. of the 2000 Gen. Assem.)

### **INDIVIDUAL RESPONSIBILITY**

Notwithstanding any other provision of law, including any law on privileged communications, each mandated reporter, acting in a professional capacity, who has reason to believe that a child has been subjected to:

- Abuse, shall notify the local Department of Social Services or the appropriate law enforcement agency; or
- Neglect, shall notify the local department.

If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, the mandated reporter shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.

An individual who notifies the appropriate authorities under the above subsection shall make:

- An oral report, by telephone or direct communication, as soon as possible:
  - To the local department or appropriate law enforcement agency if the person has reason to believe that the child has been subjected to abuse; or
  - To the local department if the person has reason to believe that the child has been subjected to neglect; and
- A written report:
  - To the local department not later than 48 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and
  - With a copy to the local State's Attorney if the individual has reason to believe that the child has been subjected to abuse.

### **AGENCY RESPONSIBILITY**

An agency to which an oral report of suspected abuse is made shall immediately notify the other agency.

This paragraph does not prohibit a local Department of Social Services and an appropriate law enforcement agency from agreeing to cooperative arrangements.

## **CONTENT OF REPORTS**

Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

- The name, age, and home address of the child;
- The name and home address of the child's parent or other person who is responsible for the child's care;
- The whereabouts of the child;
- The nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and
- Any other information that would help to determine:
  - The cause of the suspected abuse or neglect; and
  - The identity of any individual responsible for the abuse or neglect.

Md. Code Ann. Fam. Law §5-105(a) (1) (1991)

## **INDIVIDUAL RESPONSIBILITY**

Except as provided in this subsection, notwithstanding any other provision of law, including a law on privileged communications, a person other than a health practitioner, police officer, or educator or human service worker who has reason to believe that a child has been subjected to abuse or neglect shall:

- If the person has reason to believe the child has been subjected to abuse, notify the local Department of Human Services or the appropriate law enforcement agency; or
- If the person has reason to believe the child has been subjected to neglect, notify the local Department.

Section 9-111 Courts Article

A minister of the Gospel, clergyman, or priest of an established church of any denomination may not be compelled to testify on any matter in relation to any confession or communication made to him in confidence by a person seeking his spiritual advice or consolation.

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 canon law, church doctrine or practice.

## **State of New Jersey**

N.J. Stat. Ann. § 2C:14-1 (West 1995)

Sexual penetration means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor's instruction. The depth of insertion shall not be relevant as to the question of commission of the crime.

Sexual contact means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actors intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present.

Intimate parts mean the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person.

N.J. Stat. Ann. § 2C:14-2 (West Supp. 1999)

An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under anyone of the following circumstances: (1) The victim is less than 13 years old; (2) The victim is at least 13 but less than 16 years old; and (i) The actor is related to the victim by blood or affinity to the third degree; or (ii) The actor has

supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status; or (iii) The actor is a foster parent, a guardian, or stands in loco parentis within the household.

Aggravated sexual assault is a crime of the first degree.

An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under anyone of the following circumstances: (1) The victim is at least 16 but less than 18 years old, and (i) The actor is related to the victim by blood or affinity to the third degree; or (ii) The actor has supervisory or disciplinary power over the victim; or (iii) The actor is a foster parent, a guardian, or stands in loco parentis within the household. (2) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim. Sexual assault is a crime of the second degree.

N.J. Sta. Ann § 2C:24-4 (West Supp. 1999)

Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child is guilty of a crime in the second degree.

Any other person who engages in conduct or who causes harm as described in this subsection to a child under the age of 16 is guilty of a crime of the third degree.

Child means any person under 16 years of age.

Prohibited sexual act means sexual intercourse; anal intercourse; masturbation; bestiality; sadism; masochism; fellatio; cunnilingus; or nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction.

## **REPORTING STATUTES:**

N.J. Stat. Ann. § 9:6-8.10 (West 1993)

### **INDIVIDUAL RESPONSIBILITY**

Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Youth and Family Services by telephone or otherwise.

### **CONTENT OF REPORTS**

Such reports, where possible, shall contain:

- The names and addresses of the child and his parent, guardian, or person having custody and control of the child,;
- If known, the child's age;
- The nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment; and
- Any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator,

### **DEPARTMENT RESPONSIBILITY**

N. J. Stat. Ann. § 9:6-8.10a (e) (West, WESTLAW through L. 2000, ch. 143)

For incidents determined by the Division of Youth and Family Services to be substantiated, the Division shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the division during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

N.J. Stat. Ann. § 9:6-8.11 (West 1993)

Upon receipt of any such report the Division shall immediately take such action as shall be necessary to insure the safety of the child, and to that end may request and shall receive appropriate assistance from local and State law enforcement officials. The Division shall also, within 72 hours, forward a report of such matter to the Central Registry of the Division in Trenton.

## **Commonwealth of Pennsylvania**

18 Pa. Cons. Stat. Ann. § 3122.1 (West Supp. 1998)

Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is four or more years older than the complainant and the complainant and the person are not married to each other.

18 Pa. Cons. Stat. Ann. § 3123 (West Supp. 1998)

A person commits a felony of the first degree when he or she engages in deviate sexual intercourse with another person who is less than 13 years of age or who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

18 Pa. Cons. Stat. Ann. § 3125 (West Supp. 1998)

Except as provided in sections relating to rape, statutory sexual assault, involuntary deviate sexual intercourse, and sexual assault, a person who engages in penetration, however slight, of the genitals or anus of the complainant with a part of the person's body for any purpose other than good faith medical, hygienic, or law enforcement procedures, commits aggravated indecent assault, a felony of the second degree if the complainant is less than 13 years of age or the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

18 Pa. Cons. Stat. Ann. § 3126 (West Supp. 1998)

A person who has indecent contact with the complainant or causes the complainant to have indecent contact with the person is guilty of indecent assault if the complainant is less than 13 years of age. Indecent contact under this subsection is a misdemeanor of the first degree.

A person who has indecent contact with the complainant or causes the complainant to have indecent contact with the person is guilty of indecent assault if the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other. Indecent contact under this subsection is a misdemeanor of the second degree.

### **REPORTING STATUTES:**

23 Pa. Cons. Stat. Ann. § 6311(a), (c) (West, WESTLAW through Act 2000-86)

#### **INDIVIDUAL RESPONSIBILITY**

Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made in accordance with the law pertaining to reporting procedure when they have reasonable cause to suspect, on the basis of their medical, professional tips, or other training and experience, that a child coming before them in their professional or official capacity is an abused child.

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 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 a report to be made in accordance with reporting procedures. This chapter does not require more than one report from any such institution, school, facility or agency.

23 Pa. Cons. Stat. Ann. § 6313 (West Supp. 1998)

### **INDIVIDUAL RESPONSIBILITY**

Reports from persons required to report shall be made immediately by telephone and in writing within 48 hours after the oral report.

### **DEPARTMENT RESPONSIBILITY**

Oral reports shall be made to the Department and may be made to the appropriate county agency. When oral reports of suspected child abuse are initially received at the county agency, the protective services staff shall, after seeing to the immediate safety of the child and other children in the home, immediately notify the Department of the receipt of the report, which is to be held in the pending complaint file. The initial child abuse report summary shall be supplemented with a written report when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.

The failure of a person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall not relieve the county agency from any duties prescribed by this chapter. In such event, the county agency shall proceed as if a written report were actually made.

### **CONTENT OF REPORTS**

Written reports from persons required to report shall be made to the appropriate county agency in a manner and on forms the department prescribes by regulation. The written reports shall include the following information if available:

- The names and addresses of the child and the parents and other responsible for the care of the child if known;
- Where the suspected abuse occurred;
- The age and sex of the subjects of the report;
- The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child;
- The name and relationship of the person or persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by that person or persons;
- Family composition;
- The source of the report;
- The person making the report and where that person can be reached;
- The actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; and
- Any other information which the department may require by regulation.

In Pennsylvania, allegations of child abuse are required to be reported to the statewide toll free child abuse hotline, ChildLine at 1-800-932-0313, by those persons identified as "required reporters." However, anyone may report allegations to ChildLine or to the county children and youth social services agency.

In Pennsylvania, child abuse is defined as:

- Any recent act or failure to act by a perpetrator which causes nonaccidental serious injury to a child under 18 years of age;
- An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age;



- Any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age;
- Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs a child's functioning.

A perpetrator is defined as a person who has committed child abuse and is the parent of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent. A person responsible for the welfare of a child is someone who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care supervision and control. This category does not include employees of public or private schools; it does apply to priests or other clergy employed by the Archdiocese.

In summary, an allegation of child abuse is:

- an act or failure to act that results in physical, sexual or mental abuse, physical neglect, or creates an imminent risk of abuse,
- to a child under 18 years of age,
- by an alleged perpetrator who is the child's parent, a person responsible for the child's welfare, a person residing in the same household as the child or the paramour of the child's parent.

Pennsylvania's Child Protective Services Law requires that persons, whose employment or profession brings them into contact with children, make child abuse reports when they have reason to suspect that a child they have seen in their professional capacity has been abused. Clergy are included in the statute as required reporters.

## **Commonwealth of Virginia**

Va. Code Ann. § 18.2-61 (Michie Supp. 2000)

If any person has sexual intercourse with a complaining witness who is not his or her spouse or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished with a child under age 13 as the victim, he or she shall be guilty of rape. A violation of this section shall be punishable, in the discretion of the court or jury, by confinement in a state correctional facility for life or for any term not less than five years. There shall be a reputable presumption that a juvenile over the age of 10 but less than 12, does not possess the physical capacity to commit a violation of this section.

Va. Code Ann. § 18.2-63 (Michie 1996)

If any person carnally knows, without the use of force, a child 13 years of age or older but under 15 years of age, such person shall be guilty of a class 4 felony. However, if such child is 13 years of age or older but under 15 years of age and consents to sexual intercourse and the accused is a minor and such consenting child is three years or more the accused's junior, the accused shall be guilty of a class 6 felony. If such consenting child is less than three years the accused's junior, the accused shall be guilty of a class 4 misdemeanor.

For the purposes of this section, a child under the age of 13 years shall not be considered a consenting child and carnal knowledge includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration.

Va. Code Ann. § 18.2-67.1 (Michie 1996 & Supp. 1997)

An accused shall be guilty forcible sodomy if he or she engages in cunnilingus, fellatio,

anilingus, or anal intercourse with a complaining witness who is not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and the complaining witness is less than 13 years of age. Forcible sodomy is a felony punishable by confinement in a state correctional facility for life or for any term of years not less than five years.

Va. Code Ann. § 18.2-67.2 (Michie 1996 & Supp. 1997)

An accused shall be guilty of inanimate or animate object sexual penetration if he or she penetrates the labia majora or anus of a complaining witness who is not his or her spouse with any object, other than for a bona fide medical purpose, or causes such complaining witness to so penetrate his or her own body with an object or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and the complaining witness is less than 13 years of age. Inanimate or animate object sexual penetration is a felony punishable by confinement in the state correctional facility for life or for any term not less than five years.

Va. Code Ann. § 18.2-67.3 (Michie 1996 & Supp. 1997)

An accused shall be guilty of aggravated sexual battery if he or she sexually abuses the complaining witness, and: (1) the complaining witness is less than 13 years of age, or (2) the act is accomplished against the will of the complaining witness, by force, threat or intimidation, or through the use of the complaining witness's mental incapacity or physical helplessness, and the complaining witness is at least thirteen but less than fifteen years of age. Aggravated sexual battery is a felony punishable by confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a term of not more than \$100,000.

Va. Code Ann. § 18.2-361 (Michie 1996)

Any person who carnally knows by the anus or by or with the mouth his daughter or granddaughter, son or grandson, brother or sister, or father or mother shall be guilty of a class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least 13 but less than 18 years of age at the time of the offense, such parent or grandparent shall be guilty of a class 3 felony.

Va. Code Ann. § 18.2-366 (Michie 1996)

Any person who commits adultery or fornication with his daughter or granddaughter, or with her son or grandson, or her father or his mother, shall be guilty of a class 5 felony. However, if a parent or grandparent commits adultery or fornication with his or her child or grandchild, and such child or grandchild is at least 13 years of age but less than 18 years of age at the time of the offense, such parent or grandparent shall be guilty of a class 3 felony.

Va. Code Ann. § 18.2-370 (Michie 1996)

Any person 18 years of age or over, who, with lascivious intent, shall knowingly and intentionally: (1) Expose his or her sexual or genital parts to any child under the age of 14 years to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or (2) Propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or (3) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or (4) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section, shall be guilty of a class 6 felony.

Va. Code Ann. § 18.2-370.1 (Michie 1996)

Any person 18 years of age or older who maintains a custodial or supervisory relationship over a child under the age of 18, including but not limited to the parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such child and is not legally married to such child, and who, with lascivious intent, knowingly and intentionally proposes that any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle the sexual or genital parts of the child, or proposes to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361, or exposes his or her sexual or genital parts to such child, or proposes that any such child expose his or her sexual or genital parts to such person, or proposes to the child that the child engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person, or sexually abuses the child shall be guilty of a class 6 felony.

Va. Code Ann. § 18.2-371 (Michie 1996)

Any person 18 years of age or older, including the parent of any child, who engages in consensual sexual intercourse with a child 15 or older not his spouse, child, or grandchild, shall be guilty of a class 1 misdemeanor.

## **REPORTING STAUTES:**

Va. Code Ann. § 63.1-248.3(A) (Lexis, WESTLAW through 2001 Sp. Sess. I)

### **INDIVIDUAL RESPONSIBILITY**

Mandated reporters who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services' toll-free child abuse and neglect hotline.

If neither the locality in which the child resides or where the abuse or neglect is believed to have occurred is known, then such report shall be made to the department of the county or city where the abuse or neglect was discovered or to the Department of Social Services' toll-free child abuse and neglect hotline.

If an employee of the local Department is suspected of abusing or neglecting a child, the report shall be made to the juvenile and domestic relations district court of the county or city where the abuse or neglect was discovered.

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.

### **PROFESSIONAL RESPONSIBILITY**

Upon receipt of such a report of suspected abuse or neglect by an employee of the local Department by the court, the judge of the juvenile and domestic relations district court shall assign the report to a local Department of Social Services that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the State Department of Social Services in selecting a local Department to respond to the report or the complaint.

### **CONTENT OF REPORTS**

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local Department on a form prescribed by the State Board of Social Services.

The person required to make the report shall disclose all information which is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available

to the child-protective services coordinator and the local Department of Social Services, which is the agency of jurisdiction, any records or reports which document the basis for the report.

Va. Code Ann. § 63.1-248.4 (Lexis, WESTLAW through 2000 Reg. Sess.)

**INDIVIDUAL RESPONSIBILITY**

Any person who suspects that a child is an abused or neglected child may make a complaint concerning such child, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services' toll-free child abuse and neglect hotline. If an employee of the local department is suspected of abusing or neglecting a child, the complaint shall be made to the juvenile and domestic relations district court of the county or city where the abuse or neglect was discovered.

**PROFESSIONAL RESPONSIBILITY**

Upon receipt of such a report by the court, the judge of the juvenile and domestic relations district court shall assign the report to a local Department of Social Services that is not the employer of the suspected employee for investigation or family assessment; or, if the judge believes that no local department of social services in a reasonable geographic distance can be impartial in responding to the reported case, the judge shall assign the report to the court service unit of his court for evaluation. The judge may consult with the State Department of Social Services in selecting a local Department to respond to the report or complaint. Such a complaint may be oral or in writing and shall disclose all information which is the basis for the suspicion of abuse or neglect of the child.