

## 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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[New Brunswick Family Services Act \(F-2.2\)](#)

**Part III PROTECTION SERVICES**

**Duty to report child abuse**

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, including sexual exploitation through child pornography or otherwise abused shall inform the Minister of Families and Children of the situation without delay.

30(2) This section 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) A professional person who acquires information in the discharge of the professional person's responsibilities that reasonably ought to cause the professional person to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill-treated, including sexual exploitation through child pornography or otherwise abused but who does not inform the Minister of Families and Children of the situation without delay commits an offence.

30(3.1) Proceedings with respect to an offence under subsection (3) may be instituted at any time within six years after the time when the subject matter of the proceedings arose.

30(4) Where the Minister has reasonable grounds to suspect that a professional person has committed an offence under subsection (3), the Minister may, regardless of any action the Minister 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 this section, against a person who in good faith complies therewith.

30(5.01) No action shall be commenced against a person in relation to the giving of information to the Minister under this section except with leave of the court.

30(5.02) An application for leave shall be commenced by a Notice of Application served on the respondent and the Minister in accordance with the Rules of Court.

30(5.03) On an application for leave, leave shall be granted only if the applicant establishes, by affidavit or otherwise, a prima facie case that the person who gave the information to the Minister did not give the information in good faith.

30(5.04) If leave is not granted, the court may order the applicant to pay all or any portion of the costs of the application.

30(5.05) An action against a person in relation to the giving of information to the Minister under this section is a nullity if the action is commenced without the leave of the court.

30(5.1) A person who wilfully gives false information under this section commits an offence.

30(6) Except in the course of judicial proceedings, no person shall reveal the identity of a person who has given information under this section 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(8.1) Notwithstanding subsection (8), the Minister shall not inform any person referred to in paragraphs (8)(a) to (c) of the findings and conclusion drawn by the Minister if

(a) in the opinion of the Minister, the giving of the information would have the effect of putting the child's well-being at risk,

(b) in the opinion of the Minister, the giving of the information may impede any criminal investigation related to the neglect or ill-treatment of the child, or

(c) in the case of a person identified during an investigation as neglecting or ill-treating the child, the person has not been contacted as part of the Minister's investigation.

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 or her spouse under this Act with respect to abuse or neglect of a child or an adult.

30(10) For the purposes of this section "professional person" means a physician, nurse, dentist or other health or mental health professional, an administrator of a hospital facility, 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 early learning and childcare facility or child caring institution, a police or law enforcement officer, a psychologist, a guidance counsellor, a person who provides mediation services pursuant to section 31.1 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.