

APPENDIX I

MANDATED REPORTING OF THE SEXUAL ABUSE OF MINORS TO CIVIL AUTHORITIES

On Compliance with Civil Reporting Requirements

USCCB, *Essential Norms*, §11: ‘The diocese/eparchy will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the diocese/eparchy will advise and support a person’s right to make a report to public authorities.’

From *Current Minnesota Statutes* (2005 edition): Chapter 626.556

Subd. 3. **Persons mandated to report.**

- (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2¹, or has been neglected or physically or sexually abused within the preceding three years, shall immediately² report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:
- (1) a professional or professional’s delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or
 - (2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c)³.

¹ *Current Minnesota Statutes* (2005 edition), 626.556 Subd, 2d. “‘Sexual Abuse’ means the subjection of a child by a person responsible for the child’s care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse’.

² *Current Minnesota Statutes* (2005 edition), 626.556 Subd. 2e. “For purposes of this subdivision, ‘immediately’ means as soon as possible but in no event longer than 24 hours.”

³ *Current Minnesota Statutes* (2005 edition), 595.02 “**Testimony of witnesses.** Subd. 1. Competency of witnesses. Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision: (c) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to any communication made to the member of the clergy or other minister by any person seeking religious or spiritual advice, aid, or comfort or

- (b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, the police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse.
- (c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

Subd. 4. Immunity from liability.

- (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:
 - (1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;
 - (2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19a, complying with subdivision 10D; and
 - (3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the Department of Education, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

advice given thereon in the course of the member of the clergy's or other minister's professional character, without the consent of the person."

- (b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).
- (c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

Subd. 6. Failure to report.

- (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.
- (b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

Subd. 7. Report.

An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter.

Diocesan Law on Reporting the Sexual Abuse of Minors to the Civil Authorities

5.1 The Diocese requires all clergy and diocesan and parish personnel and volunteers to contact the appropriate civil authorities when a person has knowledge or reasonable cause to suspect that a person under eighteen (18) years of age is being, or has been, sexually abused.

- 5.1.1 Persons who are obliged by the law of the State of Minnesota and the Diocese of New Ulm to report suspected sexual abuse of minors to civil authorities must carry out this duty. Reporting to Church authorities does not excuse any person from this obligation, except as may be allowed by civil law.

- 5.1.2 The Diocese will support the right of an adult who reports having been abused as a child to make a report to the prosecuting attorney of the place where the abuse allegedly occurred, even anonymously. When the Bishop's Delegate in Matters Pertaining to Sexual Misconduct receives notice that such a person chooses not to file a report, he will determine whether or not a current risk exists to children or young people under the age of eighteen (18). If such a risk exists, the delegate will file a report with the appropriate prosecuting attorney, having first attempted to obtain the informed consent of the adult who reports having been abused.
- 5.1.3 The Diocese shall not discharge or in any manner discriminate or retaliate against any person who in good faith makes a report of the sexual abuse of minors, testifies or is about to testify in any proceeding involving sexual abuse (*Minnesota Statutes*, 2005 edition, 626.556, Subd. 4a).
- 5.1.4 A priest who receives a disclosure of sexual abuse of minors during the Sacrament of Reconciliation is exempt from the requirement to report to civil and ecclesiastical authorities if making such a report would mean violation of the seal of confession (Code of Canon Law, cc. 983 §1; 1550 §2, 2°; *Minnesota Statutes*, 2005 edition, 595.02c)⁴.

Training Clergy, Diocesan and Parish Personnel and Volunteers in Filing a Report

5.2 The Diocese will train all clergy and diocesan and parish personnel and volunteers to report suspected sexual abuse of minors to the appropriate civil authorities.

- 5.2.1 The prevention and education programs offered by the Diocese will include instruction on how to report the sexual abuse of minors to civil authorities, how to respond appropriately to persons who may have been harmed by abuse or neglect, and how to gather essential information.
- 5.2.2 The Bishop's Delegate in Matters pertaining to Sexual Misconduct will assist persons in the parishes, schools, and institutions of the Diocese to report the sexual abuse of minors to the civil authorities.
- 5.2.3 When requested, the Bishop's Delegate in Matters Pertaining to Sexual Misconduct will assist clergy and diocesan and parish personnel and volunteers in filing a report with civil authorities.

⁴ See footnote 3 of this section.