

DIOCESE OF NEW ULM

POLICY BULLETIN

May 6, 2019
Administration

Diocesan 13

SEXUAL MISCONDUCT POLICY OF THE DIOCESE OF NEW ULM

To the Clergy, Religious, and People of the Diocese of New Ulm:

Sexual misconduct by personnel of the Diocese is contrary to Christian principles and is unlawful behavior. All personnel of the Diocese must comply with applicable state and local laws regarding incidents of actual or suspected sexual misconduct, and with the following policy.

This document does not address sexual misconduct in general, but only in the special circumstances described herein. It is intended to establish requirements and procedures in an effort to prevent sexual misconduct by personnel of the Diocese and the resulting harm to others, and to provide guidance to the personnel of the Diocese on how to respond to allegations of sexual misconduct if any do occur.

1.0 Definitions. For purposes of this policy only:

- 1.1 "sexual misconduct" means any sexual conduct of diocesan personnel, which is:
 - a. unlawful as described by the laws of the State of Minnesota and in section 3 of this policy; or
 - b. contrary to the moral instructions, doctrines, and canon law of the Catholic Church and causes injury to another.
- 1.2 "Personnel" includes all personnel of the Diocese including officers, lay employees, lay volunteers, clerics, and religious personnel. Of special concern are diocesan personnel in a supervisory capacity or in particularly high-risk areas, such as those who work with or around children, the very elderly, and the physically or mentally infirm, those who counsel others, and generally those who work with people who are less capable of protecting themselves.
- 1.3 "Diocese" or "diocesan" includes the Diocese of New Ulm as a corporate entity and all diocesan, non-profit, grade school and high school corporations, and parish corporate entities within the Diocese. Such entities would be considered the employer.
- 1.4 "Clergy" or "cleric" means all bishops, priests and deacons.

2.0 Policy Distribution. The policy will be broadly distributed. Consideration should be given to obtaining an acknowledgement of receipt of this policy by all primary personnel listed in Section 1.2. At a minimum, the following personnel must acknowledge receipt of this policy:

- 2.1 all paid personnel in parishes and Catholic Schools of the Diocese.
- 2.2 all volunteers of special concern mentioned in Section 1.2.

2.3 all personnel of the Diocesan Pastoral Center and campus ministers.

2.4 all persons serving on councils and/or committees directly dealing with issues concerning minors

In all cases, a signed acknowledgment of receipt and understanding of this policy and any future revisions will be received from personnel listed in Sections 2.1 to 2.3, by the parish or Diocese and filed as indicated on the Acknowledgement of Receipt form. A copy of the paper receipt acknowledgement is attached to this policy as Form A. The employer must have either the registration electronic signed acknowledgement or the signed paper form acknowledgement before contracts are finalized and employment begins. Failure to do so may result in civil consequences, including, but not limited to fines, attorneys' costs, court fees, and damages. Prospective volunteers who may have assigned duties with minors are not permitted to minister with minors without completing either the approved electronic signed acknowledgement or the paper Form A.

This policy will be available in English and Spanish, and apply to all in the above categories regardless of their native language or citizen status.

3.0 Applicable Law. This policy is intended to address violations of civil and criminal law. A violation of the criminal law can subject the perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit for monetary damages.

The Minnesota Criminal Sexual Conduct Code defines the various types of conduct that violate this law. Three of the primary areas of concern are:

Sexual Abuse (as it applies to adult/child or vulnerable person interactions) is the subjection of a child or vulnerable adult, by any person responsible for their care, to any sexual act which is a violation of the Minnesota criminal sexual conduct code.

Sexual Exploitation (as it applies to any formal helper/helped relationship) is any kind of sexual interaction between counselor and client, whether initiated by either counselor or client.

Sexual Harassment. Minnesota law (2015 Statute 363A.03) defines sexual harassment as follows:

"includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

- (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or,
- (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action."

4.0 Education. Education, alone, cannot shape mature attitudes and behavior, nor in all cases change or stop inappropriate sexual behavior. Each adult must be responsible for his or her sexual growth and maturity. To support this responsibility, the Diocese will arrange educational programs which include knowledge or training applicable to these areas. The following personnel must participate in designated educational programs concerning sexual misconduct issues such as methods of recognizing and preventing sexual misconduct involving children or others:

- 4.1 all clerics ministering in the Diocese.
- 4.2 all diocesan, parish, and Catholic school employees, adults and minors 16 years and older.
- 4.3 all youth ministers working in the Diocese.
- 4.4 all catechists and volunteers whose assigned duties include contact with minors .
- 4.5 all religious serving in the diocese, both employed and volunteers.

Rare exceptions may be granted to employed individuals that are employed for a minimal amount of time [typically fewer than three days in any calendar year or fiscal year] or largely perform their employment responsibilities without direct contact with people other than their household members. Exceptions shall never be granted for employed individuals that are unsupervised with minors or working in environments with predominately minors present. Requests for the granting of an exception must be made by the pastor or the controlling officer of a diocesan entity through formal written communication to the Bishop's Delegate in Matters Pertaining to Sexual Misconduct or his designee prior to employing the individual. The diocesan Safe Environment Coordinator will maintain a listing of exempted individuals in the database.

This exception allows for an alternative educational program than is generally required by the diocese. This exception only applies to the education requirement of this policy and not to required background checks or Sexual Misconduct Policy 13 and code of conduct receipt acknowledgment.

5.0 Background and Reference Checks. The following prospective employed personnel of the Diocese shall complete an informational questionnaire, a copy of which is referenced as Form B, and appropriate consent form(s) for the Diocese to process a comprehensive background check. The employer must have the signed forms (either in paper form or electronically) and processed the background check before contracts are finalized and employment is begun. Failure to do so may result in civil consequences, including, but not limited to fines, attorneys' costs, court fees, and damages.

Those prospective volunteers who may have assigned duties with minors must complete Form B, and appropriate consent form(s) for the Diocese to process a comprehensive background check. They are not permitted to volunteer in any capacity with minors without completing and submitting the required forms (either electronically or in paper form) and the processing of a background check resulting in approved clearance.

- 5.1 all clerics ministering in the Diocese.
- 5.2 all diocesan, parish, and Catholic school employees.
- 5.3 all lay religious education catechists teachers.
- 5.4 all lay youth ministers.
- 5.5 all volunteers having assigned duties with minors.

Those volunteers serving on councils and/or committees directly dealing with issues concerning minors are required to complete the volunteer background check consent form and have appropriate background clearance.

Applicants who refuse to grant permission for the background check and other screening will not be considered for any employee/volunteer position in the diocese/parish/school.

With regard to non-incardinated priests and religious personnel, an agreement will be reached with their respective diocese/religious order which stipulates that the Diocese will be informed immediately of any physical or sexual abuse that the diocese/religious order may become aware of.

The adverse results of background checks will be reviewed by the Bishop's Delegate or diocesan Safe Environment Coordinator.

- 6.0 Obligation to Report to Civil Authorities. Any personnel of the Diocese who knows or has reason to know of an incident of sexual misconduct by any personnel of the Diocese shall comply with any applicable reporting or other requirements of state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation). See Appendix I on Mandated Reporting in the state of Minnesota.

- 7.0 Investigation of Incident Reports. Each reported incident will be immediately investigated internally, with care taken not to interfere with any criminal investigation, and with a high level of Christian care, concern, and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the alleged perpetrator (c.1717 and cf.).
 - 7.1 Within a reasonable amount of time, legal advice, both civil and canonical, shall be obtained for the alleged perpetrator.
 - 7.2 An appropriate investigation shall be conducted. An appropriate investigation shall be conducted. See Appendix II for the current Congregation for the Doctrine of the Faith protocol which will be followed by the Diocese.
 - 7.3 Appropriate records will be kept by the Bishop (or his delegate) of each incident reported and of the investigation and the results thereof. Such records (as noted in Form C) will be kept in accord with canon law with access limited to the Bishop of the Diocese or his delegates.
 - 7.4 Any media contact or inquiries regarding an incident of sexual misconduct should be directed to the Diocesan Director of Communications.
- 8.0 Action Where Guilt Determined. Any non-clergy personnel of the Diocese who admits to, does not contest, or is found guilty of an incident of sexual misconduct shall be immediately terminated from employment and any position of responsibility with the Diocese. Any clergy in similar circumstances will be suspended from the exercise of his ministerial duties according to the provisions of canon law and the Charter. A cleric will be urged to seek diagnostic evaluation and treatment. Further penal sanctions, including, but not limited to, dismissal from the clerical state, may be contemplated pending the outcome of any civil/criminal actions, if any.
- False accusation and unsubstantiated claims. There is always the possibility of false accusations or unsubstantiated claims made for whatever reason. It is important for all diocesan personnel to know that both civil law and canon law (cc. 1390-1391) provide penalties for the crime of falsehood in which individuals become victims of false denunciation and calumny.
- 9.0 The accused is advised to retain civil and canonical counsel.
 - 10.0 The diocese/parish/school has a right to take action against guilty parties to recover judgments and/or legal expenses it incurs as a result of sexual abuse of minors by clergy, religious, employees, and/or volunteers.

11.0 A copy of this policy will be available for review by all volunteers in every parish/school upon request.

Yours in Christ,

A handwritten signature in black ink that reads "+ John M. LeVoi". The signature is written in a cursive style with a large initial 'J'.

The Most Reverend John M. LeVoi
Bishop of New Ulm

A handwritten signature in black ink that reads "Msgr. Eugene L. Lozinski". The signature is written in a cursive style with a large initial 'E' and 'L'.

Msgr. Eugene L. Lozinski
Chancellor

This updated Policy Bulletin is indexed in the Diocesan Policies under Administration, Diocesan 13, replacing the bulletin of March 5, 2016

Incorporated herein as stated in Policy 13:

Appendix I: Current State of Minnesota Mandated Reporting Information

Appendix II: Congregation for the Doctrine of the Faith Protocol

**ACKNOWLEDGEMENT OF RECEIPT:
SEXUAL MISCONDUCT POLICY/CODE OF CONDUCT OF THE DIOCESE OF NEW
ULM**

I hereby acknowledge that I have received on _____, 20_____, a copy of the SEXUAL MISCONDUCT POLICY for the Diocese of New Ulm dated March 5, 2016 I have read the policy and the

(Check One)

Volunteer

Professional

CODE OF CONDUCT of the DIOCESE OF NEW ULM, I understand the meaning of the documents and I agree to conduct myself in accordance with the policy and the code.

I also hereby declare that I have completed the attached questionnaire in truth, not withholding pertinent information that would be regarded with concern in relationship to the matters covered by the SEXUAL MISCONDUCT POLICY.

I understand that similar acknowledgement forms will be obtained at the time amendments to the policy are made and distributed.

Signature

Date of Signature

NOTE: Forms Electronically submitted and signed do not need to be duplicated in paper form.

Completed paper Forms A and B for priests, deacons, and diocesan employees/volunteers are to be forwarded to the diocesan Safe Environment Coordinator at the Diocesan Pastoral Center.

Completed paper forms A and B for employees and volunteers of a parish, Catholic school, or religious order are to be kept in the respective organization, parish, or Catholic school files. The date of the signed acknowledgement is to be reported to the diocesan Safe Environment Coordinator at the Diocesan Pastoral Center.

QUESTIONNAIRE: SEXUAL MISCONDUCT POLICY OF THE DIOCESE OF NEW ULM

Name: _____
Last First Middle

Address: _____
Street

City State Zip

Business Phone: _____ Home Phone: _____

Please list previous address(es) for past seven (7) years if different from current address on back.

Employment Record (List current and previous employers for the last five years.)

Employed by: _____

Address: _____

City & State: _____

Your Supervisor: _____ Phone Number: _____

Supervisor's Title: _____

Employed from (mo./yr.) _____ to (mo./yr.) _____

Why did you leave?

Reference checked by: _____, (position) _____ on _____.

List any and all reservations concerning the applicant on back if applicable.

Employed by: _____

Address: _____

City & State: _____

Your Supervisor: _____ Phone Number: _____

Supervisor's Title: _____

Employed from (mo./yr.) _____ to (mo./yr.) _____

Why did you leave?

Reference checked by: _____, (position) _____ on _____.

List any and all reservations concerning the applicant on back if applicable.

Employed by: _____

Address: _____

City & State: _____

Your Supervisor: _____ Phone Number: _____

Supervisor's Title: _____

Employed from (mo./yr.) _____ to (mo./yr.) _____

Why did you leave?

Reference checked by: _____, (position) _____ on _____.

List any and all reservations concerning the applicant on back if applicable.

*Has any formal allegation or civil or criminal complaint ever been made against you alleging physical abuse, sexual abuse, sexual harassment, or exploitation?

Yes _____ No _____

If yes, give a short explanation of the complaint. (Please indicate the date, nature, and place of the incident leading to the complaint, where the complaint was filed, and the disposition of the complaint.)

*Have you ever terminated your employment or had your employment terminated for reasons relating to allegations of physical abuse, sexual abuse, sexual harassment, or exploitation by you?

Yes _____ No _____

If yes, give a short explanation of the allegations. (Please indicate the date, nature, and place of the allegations, the disposition of the allegations, and your employer at the time, including your employer's name, address, and telephone number).

*Have you ever received any treatment, physical, psychological or other, for reasons involving physical abuse, sexual abuse, sexual harassment, or exploitation by you?

Yes _____ No _____

If yes, give a short description of the treatment, including date(s), nature and location(s), identifying the treating physician with name, address, and telephone number.

The information I have provided on this questionnaire is accurate to the best of my knowledge and may be verified by the Diocese of New Ulm. I agree to execute any releases necessary to permit the release to the Diocese of New Ulm of prior employment, medical, judicial, and law enforcement records and information pertinent to matters addressed in this questionnaire.

Print Name

Date

Signature

REPORT OF SUSPECTED SEXUAL MISCONDUCT
(by diocesan personnel while performing the work of the Diocese)

Reported by:

Name

Address

City

State

Zip

Phone Number

Date of Report:

Person Suspected
of Misconduct:

Name/Title

Address

City

State

Zip

Phone Number

Other Person(s) Involved:

Name _____

Name _____

Age _____ Sex _____

Age _____ Sex _____

Address _____

Address _____

City _____

City _____

State _____ Zip _____

State _____ Zip _____

Phone Number _____

Phone Number _____

*** IMMEDIATELY complete this form and mail it to the diocesan Pastoral Center, ATT: Bishop's Delegate in Matters Pertaining to Sexual Misconduct. Then call the Bishop's Delegate in Matters Pertaining to Sexual Misconduct at 507-359-2966.**

Describe incident of suspected sexual misconduct, including date, time, and location:

Identify eyewitnesses to the incident, including names, addresses, and telephone numbers, where available:

Other information that may be helpful to the investigation:

The foregoing report was investigated by:

Name

_____ on _____ with the following results:
Title Date

Report in the following space or attach the investigation report.

Signature

Date

APPENDIX I

REPORTING 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 *Minnesota Statutes* (2019 edition): Chapter 626.556

Subd. 3. Persons mandated to report; persons voluntarily reporting.

(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 immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department 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).²

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department 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.

¹ *Current Minnesota Statutes* (2019 edition), 626.556 Subd, 2n. “‘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 all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).’

² *Current Minnesota Statutes* (2019 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 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.’

(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 245D; or a non-licensed personal care provider organization as defined in section 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.

(d) Notification requirements under subdivision 10 apply to all reports received under this section.

(e) For purposes of this section, "immediately" means as soon as possible but in no event longer than 24 hours.

Subd. 3a. Report of deprivation of parental rights or kidnapping.

A person mandated to report under subdivision 3, who knows or has reason to know of a violation of section 609.25 or 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

Subd. 3b. Agency responsible for assessing or investigating reports of maltreatment.

The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E. The Department of Education's responsibility to assess and investigate includes allegations of maltreatment involving students 18 to 21 years of age, including students receiving special education services, up to and until graduation and the issuance of a secondary or high school diploma.

Subd. 3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.

(a) The local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally nonlicensed child care, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in juvenile correctional facilities listed under section 241.021 located in the local welfare agency's county and in facilities licensed or certified under chapters 245A, 245D, and 245H, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.43 to 144A.482 or chapter 144H.

Subd. 3d. Authority to interview.

The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged

perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan.

Subd. 3e. Agency responsible for assessing or investigating reports of sexual abuse.

The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household. The local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

Subd. 3f. Law enforcement agency responsible for investigating maltreatment.

The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

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 section 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.

(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.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Subd. 4a. Retaliation prohibited.

(a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000.

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

- (1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;
- (2) discharge from or termination of employment;
- (3) demotion or reduction in remuneration for services; or
- (4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

Subd. 5. Malicious and reckless reports.

Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Subd. 6. Failure to report.

Subd. 6a. Failure to notify.

If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local police department or county sheriff as required by subdivision 10, the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local welfare agency as required by subdivision 10, the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

(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.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (c), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

Subd. 7. Report; information provided to parent; reporter.

(a) 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.

(b) The local welfare agency shall determine if the report is to be screened in or out as soon as possible but in no event longer than 24 hours after the report is received. When determining whether a report will be screened in or out, the agency receiving the report must consider, when relevant, all previous history, including reports that were screened out. The agency may communicate with treating professionals and individuals specified under subdivision 10, paragraph (i), clause (3), item (iii).

(c) 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. The local welfare agency or agency responsible for assessing or investigating the report shall accept a report made under subdivision 3 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(d) When requested, the agency responsible for assessing or investigating a report shall inform the reporter within ten days after the report was made, either orally or in writing, whether the report was accepted or not. If the responsible agency determines the report does not constitute a report under this section, the agency shall advise the reporter the report was screened out. Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) Reports that are screened out must be maintained in accordance with subdivision 11c, paragraph (a).

(f) A local welfare agency or agency responsible for investigating or assessing a report may use a screened-out report for making an offer of social services to the subjects of the screened-out report. A local welfare agency or agency responsible for evaluating a report alleging maltreatment of a

child shall consider prior reports, including screened-out reports, to determine whether an investigation or family assessment must be conducted.

(g) Notwithstanding paragraph (a), the commissioner of education must inform the parent, guardian, or legal custodian of the child who is the subject of a report of alleged maltreatment in a school facility within ten days of receiving the report, either orally or in writing, whether the commissioner is assessing or investigating the report of alleged maltreatment.

(h) Regardless of whether a report is made under this subdivision, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

(i) A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Subd. 7a. Guidance for screening reports.

(a) Child protection staff, supervisors, and others involved in child protection screening shall follow the guidance provided in the child maltreatment screening guidelines issued by the commissioner of human services and, when notified by the commissioner, shall immediately implement updated procedures and protocols.

(b) Any modifications to the screening guidelines must be preapproved by the commissioner of human services and must not be less protective of children than is mandated by statute. The county agency must consult with the county attorney before proposing modifications to the commissioner. The guidelines may provide additional protections for children but must not limit reports that are screened in or provide additional limits on consideration of reports that were screened out in making screening determinations.

Diocesan Policies and Procedures on Reporting the Sexual Abuse of Minors to the Civil Authorities

1.1 The Diocese of New Ulm requires all pastoral leaders and diocesan/parish/school 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.

- 1.1.1 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.
- 1.1.2 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.
- 1.1.3 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*, 2019 edition, 626.556, Subd. 4a).
- 1.1.4 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*, 2019 edition, 595.02c).²

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

1.2 The Diocese will educate all pastoral leaders and diocesan/parish/school personnel and volunteers to report suspected sexual abuse of minors to the appropriate civil authorities.

- 1.2.1 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.
- 1.2.2 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.
- 1.2.3 When requested, the Bishop's Delegate in Matters Pertaining to Sexual Misconduct will assist pastoral leaders and diocesan/parish/school personnel and volunteers in filing a report with civil authorities.