

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

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Committee Hearings

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Misc.

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Record of Committee Proceedings

03hr_SC–JCP_RCP_pt00



WISCONSIN CATHOLIC CONFERENCE

TO: Senate Committee on Judiciary, Corrections and Privacy
Assembly Committee on Judiciary

FROM: John P. Puschner, Executive Director

DATE: September 11, 2003

RE: Archdiocese of Milwaukee Accountability Report

As you may recall, in recent weeks I have tried to meet with you or your staff on legislation pertaining to sexual misconduct by clergy. These bills, SB 207 and AB 428, are now scheduled for a public hearing next Thursday.

As you continue to review these proposals, you may have questions concerning how the Catholic Church is addressing the many issues related to clergy misconduct.

To assist you in this regard, I am sharing a copy of the Annual Accountability Report from the Archdiocese of Milwaukee. I believe you will find it very helpful.

As you review the Report, please understand that because it is the largest and oldest of our state's five dioceses, the Archdiocese has resources that allow it to be more comprehensive in some respects than other dioceses. Nonetheless, all five dioceses are making similar efforts to be accountable in these areas.

I hope you find this useful.

From: Marcott, Susan
Sent: Tuesday, September 16, 2003 2:15 PM
To: Hogan, John
Subject: FW: AB 407/SB 207

-----Original Message-----

From: alice [mailto:youngerab@yahoo.com]
Sent: Tuesday, September 16, 2003 2:09 PM
To: Sen.Zien@legis.state.wi.us
Subject: AB 407/SB 207

David Zien
 1716 63rd St
 Eau Claire, WI 54703

September 16, 2003

Dear Senator Dave:

I write this open E-letter to express a few vital things that must be addressed due to the Judiciary Committee Public Hearing that is scheduled for this Thursday 9/18/2003 in Madison Wisconsin.

Please ... zero tolerance against church sex abusers must be practiced...

1. AB 428/SB 207 must be tabled until revisions are made.
2. Children will not be protected until past offenses are addressed by legislation.
3. The needs of victims will not be addressed until revisions are made.
4. The identity of perpetrators must be made public.
5. The Church must be held accountable.
6. The Catholic Church is Wisconsin and has not taken effective steps to protect children and give justice to victims.
7. The Catholic Church will not take effective steps on its own without legislation, which compels such action.
8. AB 428/SB 207 is a good bill to address future abuse but past abuse must also be addressed, and must not be enacted as it is written now.

Like you, I am very concerned by all the pain and suffering caused by abusive priests and their accomplices. As you know, I'm working on legislation that would require, among other things, that members of the clergy report all cases of suspected child abuse. Holding clergy to the same legal standards as other professionals who have close contact with kids, like therapists and teachers, will make it easier to prosecute those in the church who abuse children or allow such abuse to continue. The bill will also extend the time limits for prosecuting and filing civil claims in child abuse cases, thereby allowing those who've been abused to get the justice they deserve.'

However, all over Wisconsin you and I have read about cases where Judges have asked for cases to be dismissed because of our State has the "Statute Of Limitation" **loop hole** that so many of our lawyers love. And I must say the "church" lawyers love it too. The victims can do nothing but go away and they have no legal way of even meeting with their own Bishops. I can tell you this personally, since I have tried to meet myself with Bishop Raymond Burke many times and have waited for letters from him at times over 6 months until he decides to return my reply. Yes, I said sometimes it takes him 6 months to reply back to me. As a victim I can't make him even reply back to me with a letter much less get him to see me to talk about a priest who abused me, Father Tom.

Father Tom sexual abused me as a minor for years and I just thought of him as my "boyfriend." In 1964 who would think of clergy abuse, I was just a farm kid who never even went to high school. It was not until 1991 that I realized it was "clergy sexual abuse" but by then it was too late.

I filed a "civil suit" and lost due to "Statue of Limitation" and now the Diocese of La Crosse can allow Father Tom to do whatever he wants to

do since he is free and they do not have to be accountable to anyone. Tom can walk around wearing his clergy "grab" and feel free to play like a good priest whenever he wants since the Bishop has never done anything to him.

In the La Crosse Diocese their "Sexual Abuse Policy" states they do not turn over anything to law enforcement. They handle it themselves. How can a case be handled properly when the evidence is tampered with? La Crosse brags that they have only one case where a priest was "convicted" and that was Father Bruce Ball from Colby. I helped with that case. I think you can understand why law enforcement officials become so outraged over lack of co-operation.

In the Superior Diocese they say they will turn over everything to law enforcement but I have a letter where they decide what sexual abuse "is" so they don't really do what they say either. So it is really worse than what La Crosse does and Superior gives the impress they are doing something where LaCrosse doesn't.

We need laws to help protect our children and we need "good" laws that will keep the priest from hiding out like they have been doing all this time.

In the end, there must be "zero tolerance for priests" who abuse children and the bishops who cover up such abuse. For that to happen, these horrific crimes must come out from behind church doors. Only then can we hope to protect more children from abuse in the future. So, where are any laws to protect victims of sexual abuse? Especially laws that are retroactive to once and for all bring devious offenders to justice. It's unbelievable in our state that most of the accused priests are on Archdiocesan payrolls or pensions, and NOT living in supervised settings, but are living unsupervised in various unknown locations in the community maybe waiting for the chance to strike again.

I am totally ashamed that Wisconsin in this case is the best state to harbor and coddle priestly perverts, further protected by the church and according to our Wisconsin laws that fail to cover these abuses.

As a mother, grandmother, auntie, godmother and neighbor to oodles of pure Catholic children, it makes me sick not knowing whom the dirty enemy is inside my own church, those that perform nasty sexual misdeeds against innocent kids.

I must ask you, how many more decades will this type of abuse, lie, scams, secrets, and lawlessness continue in Wisconsin by bishops, priests and lawyers?

We need change to happen before more little girls like me get abused and hurt, please listen and do your part...

Sincerely,

Alice

Alice Younger

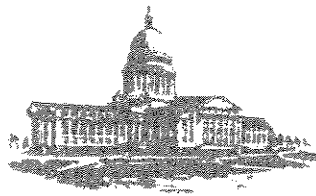
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Stratford, WI 54484

youngerab@yahoo.com

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Vice Chair:
State Affairs
Small Business & Consumer Affairs



Member:
Colleges and Universities
Health
Natural Resources
Veterans & Military Affairs

JUDY KRAWCZYK

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

September 17, 2003

To Members of the Judiciary, Corrections and Privacy Committee,

Attached you will find a letter from a woman whose son was abused by a Priest. She has asked that it be distributed to all members of the committees who will be meeting for the public hearing tomorrow.

I hope you will make the time to read her brief letter.

I thank you, in advance, for reading it and for considering what she has written as you prepare for tomorrow's hearing.

Sincerely,

Judy Krawczyk
State Representative

Office: P.O. Box 8952, State Capitol • Madison, Wisconsin 53708-8952
(608) 266-0485 • Fax: (608) 282-3688 • Toll-Free: (888) 534-0088 • Rep.Krawczyk@legis.state.wi.us

District: 2294 Manitowoc Road • Green Bay, Wisconsin 54311 • (920) 469-4364

This is a repeated letter for I failed to enclose my address information in the first letter, I have never written to my representatives before I hope this correct and you will take my letter into consideration. Please feel free to pass it on to others who will be looking at this bill on 9/18/2003

I'm writing to you as our state Senator or state Representative to urge you to help strengthen the upcoming legislation "Clergy Child Sexual Abuse Bill" I believe this is on September 18,2003.

We need to make Wisconsin a safer place for our children.

The current bill(Assembly Bill 428 and the Senate Bill 207), although it will help future victims, it carries no provision to help past victims.

We need such a provision included. Let me tell you why, we must make a law which no longer allows or continues to shield the religious organizations from civil accountability.

It is so sad that we need to pass a bill to force clergy and bishops to report the abuse of a child.

I'm the mother of a child who was abused in 1988 at the age of 10 by a priest.

The law may suggest I say alleged abused because we were never allowed our day in court.

But as a mother I know my son was abused. By a priest, someone we trusted.

We even encouraged him to see the very priest for counseling that would abuse him in at least 4 of those sessions.

After seeing a family therapist for several months our son started keeping a journal at the request of the therapist. It is now 1990 and our son reviled he was abused by this priest in 1988. For two years we watch our sons spirit empty, with rage and anger to a complete frozen state. Not what a child of 10 and 11 should be like.

We did what we thought was right,we told the police, child services and even spoke to the DA.

However all they did was take our son's statement. They investigated no one.

The priest and the spoke person for the diocese said it did not happen.

We spoke with them with our son who told them what had happen, they told us this priest would never be around children and that they would pay for all remaining counseling our son may need. We were even told that we should not discuss this with other church members because it was possible that this priest could sue us for defamation of character.

No one knew what would be reveled in January 2003.

Please extend the time in which abuse victims can expose their molester and seek justice the American way: through the courts. This priest admitted abusing boys in our diocese in a letter and our son now 25 years old, filed a suit to seek justice, however yet again we our left without justice due to the laws now in place. We have been denied a day in court.

Please make a difference now, don't wait to look back 5 or 10 years from now and say we should have done more.

As a mother and Christian I've had so much faith in the word of my diocese leaders.

These were false words they were instructed to give my family.

Please make sure this never happens to another family and pass a law that gives my son a chance to seek justice in the courts.

Please pass a law the holds pedophile ministers and their supervisors held accountable for crimes against our children in Wisconsin. Include a provision to help past victims seek justice and heal the past.

Sincerely,

Judith A. Schauer

Kenneth L. Schauer

1501 Guns Street

Green Bay, Wi 54311

920-469-2776

judith007sbcglobal.net


Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

TESTIMONY BEFORE SENATE AND ASSEMBLY JUDICIARY COMMITTEES
“SB 207 - Clergy Abuse and Mandatory Reporting Bill”

September 18, 2003

Good morning Chairmen Zien and Gundrum and other members of the joint Judiciary Committees. I am pleased to sit before you today for the purpose of testifying on Senate Bill 207 and Assembly Bill 428. If passed, this legislation will provide a stronger mechanism to protect children from neglect, abuse and sexual assault and will hold members of Wisconsin's clergy to stricter standards of conduct.

In response to the scandals involving the sexual abuse of children by clergy, this bipartisan legislation has been introduced to require members of Wisconsin's clergy to become mandatory reporters. Under current law, certain persons who are mandatory reporters of child abuse and neglect are required to make a report if they have reasonable cause to suspect a possible assault. Mandatory reporters include most health care providers; social workers, teachers and child care workers. This bill would add members of the clergy to the list.

This bill also extends the statutes of limitation for criminal prosecution for abuse. Upon passage of this legislation, prosecution for sexual assaults of a child and other sexual crimes must be commenced before the victim reaches 45 year of age. Currently the prosecution must be commenced before the victim reaches 31 years of age. In addition this bill allows victims of certain crimes against children to bring a civil action before reaching age 35. Currently the lawsuit has to be commenced within three years of the date the action occurs.

Finally, this bill sets forth a cause of action for sexual exploitation by a member of the clergy. The victim will have the option of suing a member of the clergy for all damages and the victim will also have the option of bringing action toward the organization that employs the member of the clergy if they fail to meet the mandatory reporting requirement.

Rep. Peggy Krusick and I, our staff and legislative council have been working on this legislation for over a year and a half. We have received input and worked with numerous groups with a stake in this legislation, including various religious groups, victims groups and support groups for sexual assault and prevention of child abuse. This is a compromise piece of legislation.

Each of the three provisions I mentioned above is a significant and important step forward in the state's effort to protect our children. While acknowledging the fact this bill does not make all those affected and concerned with ending clergy abuse content, it will strengthen current law and help protect our kids.

Thank you again, Chairmen, and members of the committee. At this time, if you have any questions I would be happy to answer them.

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District Office: N88 W16621 Appleton Avenue • Menomonee Falls, Wisconsin 53051
Email: Sen.Darling@legis.state.wi.us • **Web page:** www.legis.state.wi.us/senate/sen08/news/



WISCONSIN CATHOLIC CONFERENCE

TESTIMONY IN SUPPORT OF SENATE BILL 207 AND ASSEMBLY BILL 428

September 18, 2003

I am Bishop Robert Morlino, Bishop of the Roman Catholic Diocese of Madison and Vice President of the Wisconsin Catholic Conference. I offer testimony in support of these proposals on behalf of all the bishops of the Conference.

Last March when Archbishop Dolan appeared before the legislature he reflected on the vital relationship between church and society. So often we come to you urging you to do more for those who are vulnerable, to do more to serve human dignity, appealing to your conscience to serve the common good. Today, I am here before you because society is calling on us to face our own shortcomings and challenging us in conscience better to serve Wisconsin's people. I want you to know that we have heard that call. Our support for these bills is part of our response.

I thank the authors of these bills for the fair and thorough manner in which they have dealt with the complex issues addressed in the proposals.

We have reviewed these bills in light of their impact on the protection of young people, justice for victims, accountability for religious ministers and organizations, due process, and the rights of faithful Catholics who give generously of their resources to support the Church.

We support the bills because we think they do the following.

First and foremost, they improve the law in a way that provides more protection for children and victims.

Second, by adding clergy to the list of mandatory reporters, and clarifying that churches are appropriately subject to the law, they help restore the trust of our fellow citizens, Catholic and non-Catholic alike. Adding our voice to efforts to improve the laws in this area is one way of the many ways in which we can move to set things right for the future. People who have faithfully supported their parishes and the ministries that make up the Catholic presence in Wisconsin deserve no less.

Third, we believe these bills respect the religious pluralism of our state. We want laws that are as considerate of other religions as they are of ours. The bills meet that test.

To avoid duplication, my testimony will focus on that part of the bill pertaining to mandatory reporting of sexual abuse.

The bills add members of the clergy to this category of mandatory reporters of sexual assault of children. Such a proposal was considered nine years ago but did not become law. It should become law now.

Adding clergy to the list of mandatory reporters provides an opportunity to restore trust and live up to the vision in our *Charter on the Protection of Children and Young People*. For Wisconsin's citizens, it provides an opportunity to strengthen our state's commitment to help vulnerable children. Such an opportunity should not be missed.

Some may fear that asking clergy to report child abuse and neglect will threaten the free exercise of religion guaranteed by our Constitution. While we should always take such concerns seriously, asking clergy to be mandatory reporters does the exercise of religion no harm.

In fact, diocesan policies in Wisconsin already require priests and other church employees to report abuse and neglect, even if not legally required to do so. Moreover, laws in most other states treat clergy as mandatory reporters. There is no evidence or indication that this requirement has interfered with the pastoral relationship between priests and laypeople in those states.

The sexual abuse of minors by priests or bishops or anyone is a most grave sin, as indicated by church law, reveals a psychological disorder and is rightfully a most serious crime in the civil order. In the past, a number of bishops and priests have failed to respond to this threefold complexity. Very many victims have been irreparably harmed by this failure within our church. We are doing everything possible so that this failure will not occur again.

All of us, especially children, are better served by a system in which reports of child abuse are investigated by those best trained for the task – and so the mandatory reporting of sexual abuse, as called for in these bills, is an essential thread in the fabric of our total response. While the suffering of victims and our desire to care for them remains our unquestioned focus, we as bishops and our church have been profoundly humiliated by what some have done or failed to do. We can only pray that for us as bishops, and for our church, this humiliation will become a highway to real humility.

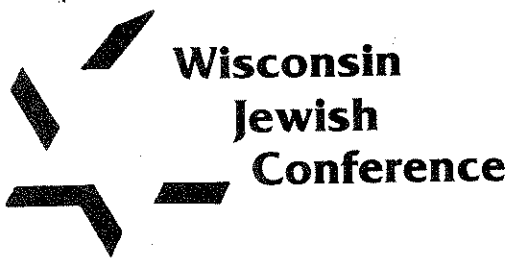
As it did nine years ago, the draft legislation does not apply to information learned in the sacrament of confession or similar communications in other faith traditions where the clergy member has a duty to maintain confidentiality. In our tradition, bishops do not hear confessions from priests in their diocese. Thus anything a bishop hears about a priest-abuser will come to him outside the sacramental seal and we will report it.

Even as the bill exempts pastoral communications, it also imposes an additional burden on those of us who supervise clergy. Unlike other mandatory reporters, those who supervise or are responsible for clergy must forward reports concerning abuse by clergy even when they don't see the child in question and even if the report comes from an anonymous source.

As I conclude, I want to assure all of you that in our minds legal requirements do not exhaust moral obligations. Our support for this legislation is a vital component of our effort to heal those wounded by clergy misconduct, but is not the only component. Backing this bill is but one part of our larger effort to restore your trust in our will and our capacity to face up to the problems of clergy and others who abuse children and youth.

Our effort to restore trust is very much a work in progress. But we are committed to reach out to victims and survivors, with the assistance of independent professionals outside the church structure, in ways that are restorative to them and their loved ones. Our efforts have proven satisfactory to some, less so to others. I doubt we will find a single approach that works for all but I remain hopeful we will earn the trust of most. But you can be assured our efforts will continue.

Thank you for this opportunity to testify. I will respond to any of your questions as I can. Later, Barbara Ann Cusack from the Milwaukee Archdiocese and our Executive Director John Huebscher will also respond to questions if you so desire.



**Wisconsin
Jewish
Conference**

Wisconsin Jewish Conference
Testimony in support of 2003 Senate Bill 207/Assembly Bill 428
Senate Committee on Judiciary, Corrections and Privacy and
Assembly Committee on Judiciary
September 18, 2003

**Member
Communities:**

Antigo
Appleton
Beloit
Green Bay
Janesville
Kenosha
Madison
Manitowoc
Marshfield
Milwaukee
Oshkosh
Racine
Sheboygan
Stevens Point
Waukesha
Wausau

My name is Joel Pittelman; I am the Chair of the Wisconsin Jewish Conference, an organization representing the public policy interests of Jewish Communities throughout the state. The Wisconsin Jewish Conference currently consists of 17 communities, including large ones, such as Milwaukee and Madison, but also a number of smaller communities that may only have one synagogue and fewer than 100 members. The Wisconsin Jewish Conference supports Senate Bill 207 and Assembly Bill 428. We thank Senator Darling and Representative Krusick for their hard work and the very thoughtful process they've used in drafting this measure. We also appreciate that the Senate and Assembly Judiciary Committees have decided to hold a joint hearing so that we may testify about this important measure to members of both committees.

The Wisconsin Jewish Conference is supportive of this legislative effort and the assistance it will provide to victims of abuse. As you may recall, during the 1993-1994 legislative session, we worked with Representative Krusick and other faith groups to craft a similar measure relating to clergy reporting, and although 1993 Assembly Bill 250 did not ultimately become law, we appreciate continued efforts to make these important changes.

Although we support the entire bill, today I will limit my testimony to comments about the cause of action provisions in SB 207 and AB 428. The Wisconsin Jewish Conference believes that the creation of a statutory cause of action against religious institutions for sexual exploitation by one of their clergy members is appropriate and desirable. As the bills are drafted, a person may bring an action against a religious organization that employed a member of the clergy if, at the time the sexual contact occurred, an employee of the religious organization, whose duties including supervising that member of the clergy, knew or should have known that member of the clergy previously had sexual contact with a person under the age of 18. The bills further specify that this cause of action applies if a supervisor of an abuser knew of the abuse but did not report the contact as sexual abuse and did not exercise ordinary care to prevent similar events from occurring.

The Wisconsin Jewish Conference believes it is an important distinction that the employee of a religious organization is liable if he or she is in a supervisory position and takes no action. We believe that liability should be limited to circumstances in which employees with supervisory authority or other professionals have such actual or constructive knowledge of abuse.

We are strongly committed to the fundamental principle of fairness reflected in this legislation, namely that religious institutions should face liability for clergy abuse of children only when a person charged with responsibility for the clergy member has actual or constructive knowledge of the abuse and fails to take appropriate action; imposing liability when an individual who lacks such authority fails to act serves no legitimate purpose and is not fair.

This distinction is also important to us because of the unique relationship Jewish congregations have with clergy members. Each of the Jewish congregations is an independent institution; there is no hierarchical structure. The supervisory relationship between a synagogue and a clergy person typically exists as a contract between the volunteer lay leadership and the clergy person, usually a rabbi or cantor. Placing some limitation on liability is necessary to ensure that we will continue to have members willing to serve as volunteer members of Boards of Trustees of our congregations. The way these measures are currently drafted, limiting liability to employees, supports voluntary board structures such as those found in Jewish communities.

In the process of garnering support for this legislation we have worked closely with the Wisconsin Council of Rabbis, as well as examined the ethics policies of the Orthodox, Conservative, Reconstructionist and Reform rabbinical associations, to insure that the policies of these national associations address the serious issue of sexual misconduct.

In closing, we would also like the committee to know that we will be working with all our member communities with technical assistance and training when this legislation is signed into law.

The Wisconsin Jewish Conference appreciates having the opportunity to comment on SB 207 and AB 428. We look forward to working with the Legislature as these important bills move forward. I would be happy to try and answer any questions that you may have.

September 18, 2003

Senator David A. Zien, Chairperson
Senate Judiciary Committee
State Capitol
Room 3, North
PO Box 8953
Madison, WI 53707

Senator Zien,

Thank you for the opportunity to respond to the proposed legislation relating to sexual abuse of children by members of the clergy (SB 207 and AB 428) during the joint Senate and Assembly Judiciary Committee Hearing held on August 18, 2003.

NASW continues to support the expansion of the statutes of limitation for prosecuting certain crimes against children as well as allowing victims of certain crimes to bring civil action. We would support the expansion to a specific age based on empirical data and research regarding the age of disclosure by adult survivors of clergy sexual abuse.

NASW also supports the civil cause of action against clergy for sexual exploitation of a child as well as the religious organization that employed the member of the clergy if, at the time that the sexual contact occurred, an employee of the religious organization whose duties included supervising the clergy member knew or should have known that the clergy member previously had sexual contact with a person under the age of 18 and failed to report that sexual contact as sexual abuse and failed to exercise ordinary care to prevent similar incidents from occurring.

NASW welcomes the inclusion of clergy as mandated reporters if they have reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties has been sexually abused, or threatened with sexual abuse and sexual abuse of the child will likely occur. We also support the additional language requiring clergy to report if he or she has reasonable cause, based on observations made or information that he or she receives, to suspect that another member of the clergy has sexually abused a child or has threatened a child with sexual abuse and the sexual abuse will likely occur. We support the above clause for clergy without impacting the current threshold of reporting abuse and neglect for current mandated reporters.

NASW continues to have grave concerns regarding the clause not requiring clergy to report information regarding suspected sexual abuse that is obtained solely through confidential communications made to the clergy member privately or in a confessional setting if he or she is authorized to hear or accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Further, the disciplines, tenets, or traditions relating to confidential communications need not be in writing. It appears that "confidential communication" is so loosely defined that any private communication with clergy that is requested to be kept confidential could in fact be kept confidential. Therefore, this bill would continue to allow the disclosure of clergy sexual abuse to be kept confidential.

In addition to the requirements of a mandated reporting in Chapter 48.981(2) of the Wisconsin State Statutes, social workers in the state of Wisconsin are bound by a professional code of ethics and state administrative rules regarding privacy and confidentiality. Section 1.07(c) of the National Association of Social Workers (NASW) indicates that "Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person. In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed." Further, 107(d) mandates that "Social workers should inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible before the disclosure is made. This applies whether social workers disclose confidential information on the basis of a legal requirement or client consent. 107(e) indicates that "Social workers should discuss with clients and other interested parties the nature of confidentiality and limitations of clients' right to confidentiality. Social workers should review with clients circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the social worker-client relationship and as needed throughout the course of the relationship."

Section 1.09 of the NASW Code of Ethics explicitly bars social workers from engaging in sexual relationships with current clients, clients' relatives or former clients. In addition, social workers are also prohibited to provide clinical services to individuals with whom they have had a prior sexual relationship.

The NASW Code of Ethics further requires action when a social worker becomes aware of unethical conduct of colleagues. "When necessary, social workers who believe that a colleague has acted unethically should take action through appropriate formal channels (such as contacting a state licensing board or regulatory body, an NASW committee on inquiry, or other professional ethics committee)." (2.11 NASW Code of Ethics)

The State of Wisconsin, Department of Regulation and Licensing, Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board have enacted administrative rules relating to the unprofessional conduct of social workers also. (MPS 20)

The NASW Code of Ethics and the State of Wisconsin's administrative rules ensure that unethical conduct is not tolerated. If unethical behavior occurs, a formal process has been established both by the professional association as well as the state of Wisconsin to sanction the professional which may include the surrendering of the professional's license to practice.

Given that clergy are not licensed or regulated by the state of Wisconsin nor are all clergy bound by a professional code of conduct, it is clear that the section regarding "private communication" of SB 207 and AB 428 requires further discussion. As currently written "private communication" is vague and undefined. Unless this section is more clearly defined, clergy sexual abuse, or the knowledge of sexual abuse by a clergy will continue to occur unreported.

We would like to thank you again for an opportunity to respond to your proposed legislation. We look forward to the questions and concerns we have raised and look forward to working with you in the future. Please feel free to contact us if you are in need of further information.

Sincerely,

A handwritten signature in black ink that reads "Wendy Volz Daniels". The signature is written in a cursive, flowing style.

Wendy Volz Daniels, MSW, LCSW
Legislative and Social Policy Committee Member
Children's Task Force Member

CC: Senator Fitzgerald
Senator Stepp
Senator George
Senator Carpenter



Christian Science Committee on Publication for Wisconsin

September 18, 2003

REQUEST FOR AMENDMENTS

PREAMBLE. STATEMENT OF SUPPORT FOR THE PURPOSE OF AB 428 & SB 207

The Christian Science Community in Wisconsin supports the purpose of AB 428 and SB 207 to protect children. Abuse of any child is intolerable. Pedophilia is a crime that should not be ignored or hidden. Child abuse is successfully addressed by legislation when it encourages a community to work together to protect children and stop child abuse, and also provides an environment that promotes the healing of abuse to occur.

We support the bill's provision that maintains the confidentiality of sacred communications. The confidentiality of sacred communications is crucial because it assures the abused that they can speak openly, but privately, to a member of the clergy without fear that the clergy will be forced to violate that confidence by a court of law. We also support the bill's provision to require members of the clergy to report information concerning sexual abuse of a child when that information is obtained outside of confidential communications or confessionals. We believe this will help protect children.

REQUEST FOR TWO AMENDMENTS TO AB 428 AND SB 207

The Christian Science Committee on Publication for Wisconsin respectfully requests two amendments to AB 428/SB 207.

1. In the bill, on page 3, in line 2, after the word "brothers" ADD the term "**Christian Science practitioners**" to read:

"48.981 (1) (cx) 'Member of the clergy' has the meaning given in s. 765.002 (1) or means a member of a religious order, and includes brothers, **Christian Science practitioners**, ministers, monks, nuns, priests, rabbis, and sisters."

2. In the bill, on page 6, in line 20 ADD to Section 8 to read:
"Section 8. 905.06 (1) (a) of the statutes is amended to read:

905.06 (1) DEFINITIONS. As used in this section:

(a) A "member of the clergy" is a minister, priest, **Christian Science practitioner**, rabbi, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting the individual."

ok w/ Sponsors

Leg. Cncl. says this not necessary

cc - Housekeeping - keeps def. consistent w/ evidence code.

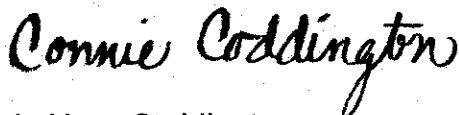
EXPLANATION OF THE REQUESTED AMENDMENTS

The purpose of our proposed amendments is to clarify that a "Christian Science practitioner" is considered within the definition of "member of the clergy" for purposes of the accommodation for confidential communications in section 48.981(2) (bm) subd. 3., as well as in the Evidence Code section 905.06 (1)(a).

Amendment One . The services of Christian Science practitioners are a religious practice and, therefore, should be treated as other religious practices such as those provided by a priest or rabbi. Our inclusion as a "member of the clergy" is supported by the first and fourteenth amendments to the U.S. Constitution. In speaking with members of the Judiciary Committees considering this bill, we have found no objection to this amendment that lists "Christian Science practitioner" as a "member of the clergy" for purposes of s. 48.981 reporting of child sexual abuse.

Amendment Two . We are also requesting that "Christian Science practitioner" be included in the definition of "member of the clergy" in Section 905.06 (1) in the Evidence Code. This is more of a housekeeping request, to make the Evidence code match with AB 428/SB 207. Some of the attorneys working with this legislation have voiced a concern that this language might not be germane to the bill because AB 428/ SB 207 does not deal with the Evidence Code. However, the bill does reference the Evidence Code [See page 6, Section 8], which, in our view puts to rest any germaneness question. Many other states include Christian Science practitioners as "member of the clergy" in their Evidence Codes. [List of these states available on request] This amendment would establish consistency between AB 428/SB 207 and the Evidence Code and would make Wisconsin's code match that of many other states. Inclusion of this amendment in AB 428/ SB 207 is a legislatively efficient way to correct this inconsistency.

We respectfully request that this bill be amended as stated above.



Connie Hays Coddington
Christian Science Committee on Publication



Wisconsin Coalition Against Sexual Assault



Testimony for Senate Bill 207 and Assembly Bill 428:
The Abuse by Clergy Bills

My name is Lisa Macaulay and I am the policy specialist for the Wisconsin Coalition Against Sexual Assault, Inc. We support a statewide network of concerned individuals and organizations working to promote the social change needed to end sexual violence in Wisconsin. I am here to speak in support of Senate Bill 207 and Assembly Bill 428 as steps in the right direction to support victims of sexual assault. Our decision was not an easy one to make and we have concerns that these bills, while a good step forward do not go far enough to reach the multifaceted issues faced by victims of abuse by clergy. You will hear many stories today and we encourage you to take action to address their concerns.

WCASA, Inc. continues to support this legislation because we believe there are legislative changes in these bills that are necessary. This language adds the clergy to those who are required to be mandated reporters. While teachers and health care professionals, with whom we place high levels of trust, are already on this list, clergy is not. For many people, including those here today, the clergy hold a

strong and powerful position of trust in their lives. Sexual abuse by a trusted figure of authority whether it's a parent, therapist, teacher or clergy is particularly harmful. Perpetrators of sexual assault who hold these positions of authority find victims in trusting human beings who come to them searching for guidance. The abuse and betrayal victims face is enormously damaging. Twenty-one other states have recognized that the clergy's role in the community is one that needs to carry with it the responsibility of being a mandated reporter. Wisconsin needs to join those other states and add that language from SB207 and AB428 to our statutes.

Sexual abuse by clergy is similar to other sexual offences such as incest, or sexual assault by a therapist, in that reporting this criminal activity is complicated by the very nature of the relationship and the secrecy likely to be involved. Many victims of childhood sexual abuse are unable to report the abuse until adulthood. It is then they finally believe they are safe from the retribution that could come from their abuser. These sexual assaults are perpetrated within very personal relationships and bringing this into the criminal justice system is a complicated process that can seem terrifying to an adult let alone a young child, teen or young adult. This is but one of the reasons that sexual assault is one of the least reported crimes. WCASA, Inc. sees the extension of the statute of limitations in these bills as a promising step. Over the years, Rep. Krusick worked to raise Wisconsin's statute of limitations. We support the work that has gone into the

extension of our statute of limitations in both the criminal and civil arena. If the passage of time prevents the prosecutions of sex offenders, our children remain in danger. We do them no favors, if we do not ensure they have the time needed to reach the point where they feel safe enough to report this crime. Victims of sexual abuse by clergy deserve the same remedies within our legal system as other victims of sexual assault.

We recognize that this legislation is not perfect. It does not address many of the concerns that will be brought forth here today, by very courageous individuals. The safety and well-being of the citizens of Wisconsin rest on our shoulders and what we are willing to do in order to protect them from sexual perpetrators.

WCASA, Inc. will continue our work to ensure that all victims of sexual violence receive every possible protection under our laws. We hope you will support this legislation as a way to begin your work. These bills are a step in the right direction.

Thank you for your attention to this issue and I will be happy to answer any questions.

In Support of SB 207/AB 428

by Annie Laurie Gaylor
2400 Fox Ave, Madison WI 53711

Submitted as an individual

Wisconsin is the worst state in the union in which to be a victim of a sexually abuse priest, minister or church employee. The right of such victims to sue in civil court over church negligence, culpability, and cover-ups has been egregiously brought to a screeching halt by our state Supreme Court.

In 1988, I authored the first nonfiction book sounding the alarm about the extent of the problem of sexual abuse by clergy, particularly of juveniles, called "Betrayal of Trust: Clergy Abuse of Children."

This book warned of the epidemic of sexual abuse in churches of all denominations, but particularly in the Roman Catholic Church. As Catholic attorney Rev. Thomas Doyle warned in his secret report to bishops in 1987, the Catholic Church's common practice of transferring a molesting priest to another, unsuspecting parish, made the Catholic Church appear to be "an organization preaching morality and providing sanctuary to perverts."

The Church Mutual Insurance Co. of Merrill, Wis., issued a brochure to its church clients in 1986 advising churches to make major reforms, even to fingerprint all applicants for church positions, because of widespread sexual abuse, saying it "happens at churches of all denominations and at church-operated camps, schools, and day care centers."

My book has since been joined by many other exposes over the past decade, including "Betrayal," the new book by the Boston Globe's Pulitzer prize winning investigative team, which has brought renewed attention to the plight of victims of Catholic priests and institutional cover-up.

This summer we have seen newsworthy civil settlements by the Catholic Church. The Archdiocese of Seattle, Wa., agreed this month to pay \$7.87 million to settle 15 sexual abuse lawsuits against one priest. This month the Boston Archdiocese finally settled \$85 million in the case brought by 552 victims. The Archdiocese of Louisville, KY, agreed in June to pay \$25.7 mil to 243 people.

These civil lawsuits, some of which involved cases that were not tried criminally because of the statute of limitations, made it possible for the Boston Globe

and other newspapers to uncover the truth, give victims and their families the leverage to demand accountability, names of perpetrators, documents showing cover-ups by bishops and other officials, and have brought forward suppressed allegations, which could then be investigated.

None of this is happening in Wisconsin. Wisconsin is mired down in the bog of two state Supreme court cases, notably the decision on May 23, 1997 written by Justice Patrick Crooks, a practicing Catholic, who dismissed a civil suit against the Catholic church, saying:

“A bishop may determine that a wayward priest can be sufficiently reprimanded through counseling and prayer.”

Crimes are not to be dealt with by reprimand, counseling and prayer! It is precisely that traditional Catholic Church attitude that has created the problem!

In her dissent, Justice Ann Walsh Bradley wrote:

“The First Amendment does not imbue religious organizations with blanket immunity from tort liability.”

“Why should a diocesan decision to let a known pedophile work unsupervised with children enjoy ecclesiastical protection?”

“The ‘mercy and forgiveness’ of a religious organization toward known sexually exploitative clergyman does not excuse the organization from responding in damages when he clergy uses his position to procure his next victim.”

David McFarlane, the attorney for the losing plaintiff, warned when this decision came down that it would insulate culpable churches from all liability.

That is exactly what has happened.

Today’s Milwaukee Journal Sentinel reports that the Milwaukee Diocese has released a report estimating that 4.9% of the 916 diocesan priests since 1935 have “substantiated” records of abuse. I would consider this low, because who have these reports been “substantiated” by? The diocese has refused to release names, because victims and newspapers do not have the muscle in our state to force them to.

The notion that religion and its adherents are “above the law” is largely responsible for the lack of justice

to victims of clergy in Wisconsin. The separation of state and church, a safeguard for freedom of conscience in the United States, was never meant to make religion and its leaders immune from prosecution when they break the law or cause great harm.

The First Amendment does not mean a lack of accountability. Its writers did not intend to allow "hot" priests or ministers to seemingly disappear. The First Amendment was never intended to countenance an underground network of pedophilia or any other kind of criminal abuse. The insular atmosphere in some churches has provided a virtual license to "Go and sin some more," when malevolent priests or ministers have simply been transferred or expelled, with no concern for the victims or for the laws of the state.

This bill is the first step in correcting Wisconsin's shameful and uniquely unjust legal situation.

I concur with the Survivors Network of Those Abused by Priests that the bill's failure to give past victims an opportunity to file civil suits when statutes of limitation have expired is a major shortcoming. The reason many people go to civil recourse is precisely because they are unable to get justice through the criminal courts because of

statues of limitation. I urge this committee to correct this oversight, and approve this bill.



WISCONSIN LEGISLATIVE COUNCIL
INFORMATION MEMORANDUM

Legislation Relating to Sexual Abuse of Children by
Members of the Clergy (2003 SB 207 and AB 428)

Senate Bill 207 and Assembly Bill 428 are companion bills relating to reporting of child abuse and neglect and actions related to sexual exploitation of a child by a member of the clergy.

Briefly, the bill does the following:

- Requires members of the clergy to report sexual abuse of a child if they have reasonable cause to suspect sexual abuse of a child seen in the course of their professional duties and to report if they have reasonable cause to suspect, based on observations made or information received, that a member of the clergy has sexually abused a child or threatened a child with sexual abuse that will likely occur. Members of the clergy are not required to report confidential information received solely through a communication made privately or in a confessional setting, however.

- Expands the statute of limitation for prosecuting certain crimes against children so that a prosecution may be brought at any time before the victim reaches age 45, instead of age 31.

- Allows victims of certain crimes against children to bring a civil action at any time before reaching age 35.

- Sets forth a civil cause of action against clergy for sexually exploiting a child and also against religious organizations in which an employee supervising a member of the clergy knew or should have known that the member of the clergy previously had sexual contact with a child, failed to report the contact as sexual abuse, and failed to exercise ordinary care to prevent similar incidents from occurring.

MANDATORY CHILD ABUSE
REPORTING

CURRENT LAW

Current law provides that certain persons are mandatory reporters of child abuse and neglect; they must report if they have reasonable cause to suspect that a child seen in the course of their professional duties has been abused or neglected or if they have reason to believe that a child seen in the course of their professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur. Mandatory reporters include most health care providers, social workers, teachers, and child care workers.

Any other person, including an attorney, having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur *may*

CRIM

CIVIL

From 30

make a report of that suspected abuse or neglect. [s. 48.981 (2), Stats.]

THE BILL

The bill provides that members of the clergy are required to report if they have reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties has been sexually abused, or threatened with sexual abuse and sexual abuse of the child will likely occur. "Sexual abuse" is defined as follows:

- Sexual assault (intercourse or contact) of a child in violation of s. 940.225, 948.02, or 948.025, Stats.
- Sexual exploitation of a child in violation of s. 948.05, Stats.
- Permitting, allowing, or encouraging a child to engage in prostitution in violation of s. 944.30, Stats.
- Causing a child to view or listen to sexual activity in violation of s. 948.055, Stats.
- Exposing genitals to a child in violation of s. 948.10, Stats.

In addition, a member of the clergy must report if he or she has reasonable cause, based on observations made or information that he or she receives, to suspect that another member of the clergy has sexually abused a child or has threatened a child with sexual abuse and sexual abuse of the child will likely occur.

"Member of the clergy" means a spiritual adviser of any religion or a member of a religious order and includes brothers, ministers, monks, nuns, priests, rabbis, and sisters. "Member of a religious order" is an individual who has taken vows devoting himself or herself to religions or spiritual principles and who is authorized or appointed by his or her religious

order or organization to provide spiritual or religious advice or service.

Under the bill, a clergy member is *not* required to report information regarding suspected sexual abuse that is obtained solely through confidential communications made to the clergy member privately or in a confessional setting if he or she is authorized to hear or accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. The disciplines, tenets, or traditions relating to confidential communications need not be in writing.

STATUTES OF LIMITATION

CRIMINAL PROSECUTION

Current Law

Under current law, a prosecution for sexual assault of a child, repeated acts of sexual assault of the same child, intentionally causing great bodily harm to a child, sexual exploitation of a child, incest with a child, child enticement involving sexual contact or sexually explicit behavior, soliciting a child for prostitution, or sexual assault of a student by a school instructional staff person must be commenced before the victim reaches 31 years of age. [s. 939.74 (2) (c), Stats.]

The Bill

The bill provides that a prosecution for the above offenses must be commenced before the victim reaches 45 years of age. This provision will expand the statute of limitation only for actions for which the current statute of limitation has not expired.

CIVIL ACTIONS

Current Law

Current law contains a statute of limitation that is specific to certain crimes against children. Under s. 893.587, Stats., an action to recover damages for injury caused by an act that would constitute a violation of sexual assault of a child, repeated acts of sexual assault of the same child, incest with a child, or sexual assault of a student by a public or private school instructional staff person must be commenced within five years after the plaintiff discovers the fact and the probable cause of the injury, or with the exercise of reasonable diligence should have discovered the fact and the probable cause of the injury, whichever occurs first. This provision originally applied only to injuries caused by incest and was expanded by 2001 Wisconsin Act 16. The statute of limitation, as expanded, first applies to actions commenced on September 1, 2001.¹

The Bill

The bill modifies the statute of limitation for civil actions relating to crimes against children, described above, so that an action must be brought before the victim reaches age 35. This provision will apply only to actions for which the current statute of limitation has not expired.

CIVIL CAUSE OF ACTION

The bill sets forth a cause of action for victims of sexual exploitation by a member of the clergy. The bill provides that any person who suffers an injury as the result of sexual contact with a member of the clergy that occurs while the person is under age 18 may bring an action against the member of the clergy for all damages caused by that sexual contact.² Under the bill, such a person may also bring an action against the religious organization that employed the member of the clergy for all damages caused by that sexual contact if, at the time that the

sexual contact occurred, an employee of the religious organization whose duties included supervising the clergy member knew or should have known that the clergy member previously had sexual contact with a person under the age of 18 and:

- Failed to report that sexual contact as sexual abuse, as described above; and
- Failed to exercise ordinary care to prevent similar incidents from occurring.

Consent of the victim is not an issue in such an action.

The bill provides that a person bringing an action for sexual exploitation by a clergy member, or plaintiff, may substitute his or her initials, or fictitious initials, and his or her age and county of residence for his or her name and address on the summons and complaint. The plaintiff's attorney must provide the court with the plaintiff's name and other necessary identifying information. The court must maintain this information and supply the information to other parties to the action in a manner that reasonably protects the information from being disclosed to the public. In addition, the court may make any order that justice requires to protect any of the following:

- A plaintiff who is using initials, as described above, from annoyance, embarrassment, oppression, or undue burden that would arise if any information identifying the plaintiff were made public.
- A plaintiff from unreasonably long, repetitive, or burdensome physical or mental examinations.
- The confidentiality of certain information until the information is provided in open court.

Under the bill, any contract or agreement concerning the settlement of any claim that

limits or eliminates the right of the injured person to disclose the sexual contact alleged to another member of the religious organization to which the clergy member belongs, to a therapist, to a person who is required to report child abuse or neglect, or to a district attorney (i.e., a silence agreement), is void.

The statute of limitation for commencing the statutory action for sexual exploitation by a

member of the clergy is the same as the statute of limitation for civil actions relating to crimes against children, described above.

The memorandum was prepared by *Anne Sappenfield, Senior Staff Attorney*, on July 31, 2003.

¹ In *Doe v. Archdiocese of Milwaukee*, the Wisconsin Supreme Court held that in cases involving sexual abuse of a minor by a member of the clergy, a plaintiff discovers or, in the exercise of reasonable diligence, should discover the cause of injury at least by the time of the last incident of assault. In that case, the court applied the general statute of limitation for injuries to a minor under which the statute of limitation is tolled or suspended until the child reaches age 18. A person who was injured as a minor may bring an action within two years of attaining age 18. [s. 893.16, Stats.] As a consequence, the court held that the plaintiffs in that case were required to bring an action before reaching age 20. The reasoning of the court was that the acts complained of were intentional acts committed without the consent of the minors. [211 Wis. 2d 312, 342, 565 N.W.2d 94 (1997).] In addition, for such cases in which the plaintiff claims repressed memory, the court held that it would be contrary to public policy, and would defeat the purposes of the statute of limitation, to allow claims of repressed memory to indefinitely toll the statute of limitation. Therefore, the date of accrual for those cases is the same for those in which repressed memory is not claimed. [*Id.* at 364.] It is not clear how this case is affected by s. 893.57 as expanded.

² It appears that a plaintiff in such a case could be awarded punitive damages if there is a showing of conduct that is malicious or in willful disregard of the plaintiff's rights. [*Gianoli v. Pfeiderer*, 209 Wis. 2d 509, 563 N.W.2d 562, 569 (Wis. App. 1997).]

WISCONSIN LEGISLATIVE COUNCIL

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ACCOUNTABILITY REPORT SEPTEMBER 2003

AN UPDATE TO THE FAITHFUL OF SOUTHEASTERN WISCONSIN REGARDING THE ARCHDIOCESAN RESPONSE TO SEXUAL ABUSE OF MINORS BY CLERGY

SEPTEMBER 2003

Introduction

The Church is the family of God and as such, is a divine institution. As a divine institution, when a priest commits a horrendous crime and sin, such as sexual abuse of a minor, the Church, as an institution, is shaken, but can focus on compassion, reconciliation and closure for the victims. It is our genuine desire for reconciliation that impels us to continue to do everything possible to heal the enormous wounds inflicted upon so many by so few.

This annual accountability statement is meant to contribute to that healing by providing information regarding actions taken and progress made by the Archdiocese of Milwaukee during the past 12 months.

Supporting Victims

Believing, supporting and caring for victims-survivors of clergy sexual abuse is a primary concern. When a victim-survivor comes forward, the Archdiocese immediately offers to provide counseling referrals and pay for therapy for the victim-survivor and/or their family regardless of when the abuse occurred. Catholic Charities has also started a support group for those who are victims-survivors of sexual abuse. Spiritual assistance is also offered.

Pastoral Mediation

The Archdiocese of Milwaukee has established a pastoral mediation process to address the concerns and needs of victims-survivors of clergy sexual abuse. The process utilizes the skills of professional, independent mediators, mutually-agreed upon in advance by the Archdiocese and the victim-survivor. The pastoral mediation process is open to all victims-survivors of clergy sexual abuse by archdiocesan priests whose allegations have been substantiated through the process recommended by the Diocesan Review Board. This process requires that a victim-survivor file a report either with civil authorities or with the Office for Sexual Abuse Prevention and Response Services. (See "Reporting Abuse" section below to learn more about how to make a report.)

Through this process, the needs and expectations of victims-survivors are presented to the Archbishop and a proposed plan of pastoral, spiritual and emotional care, plus considerations of material help with the goal of restorative justice, are discussed and agreed upon. Although the preference of the Archdiocese is that there be minimal involvement by lawyers so that resources can be spent on helping victims-survivors versus paying legal fees, victims-survivors are certainly able to bring their attorneys if that is more comfortable for them, as

long as there is agreement that the mediator, not the attorney, is in charge of the process.

As of September 1, 2003, a pastoral mediation session has been scheduled for every victim-survivor that has contacted the Archdiocese requesting this process be used as part of their healing.

Meeting with Victims

Archbishop Dolan and Bishop Sklba continue to meet with victims-survivors of sexual abuse who want such a meeting. These are private, individual meetings and have been scheduled at the request of the victim-survivor.

Reporting Abuse

If a victim-survivor of sexual abuse wants to make a report, they can contact the civil authorities in the city or county where the abuse occurred; one of the various community programs offering free services to sexual abuse survivors (a complete listing is available at www.archmil.org) or they can contact Dr. Barbara Reinke, Director of the Archdiocesan Office for Sexual Abuse Prevention and Response Services, at 414-769-3436, or Dr. Anna Campbell, a licensed psychologist in private practice, who works outside the Church structure, at 414-476-2699.

When a report of sexual abuse is received and the perpetrator is still alive, the report is immediately referred to the district attorney and/or law enforcement officials, regardless of when the offense occurred. The Archdiocese fully cooperates with civil authorities conducting investigations.

Pending Legislation

As of this writing, legislation is pending in the Wisconsin State Legislature regarding clergy sexual abuse of minors. The bill addresses three major issues. First, it adds members of the clergy to the list of mandatory reporters of sexual abuse of a minor. The Archdiocese of Milwaukee has made it clear that it supports such legislation and, in fact, that it has been the policy of the Archdiocese since the 1990s. The Archdiocese also supports the aspect of the bill increasing the statutes of limitations for civil and criminal prosecution of abuse incidents, allowing the victims of abuse more time to come forward with their claims, although we remain opposed to the elimination of the statutes of limitations. The third aspect of the bill clarifies current law to hold churches legally responsible for unreported abuse. This also is acceptable to the Archdiocese as long as religious institutions are not unfairly singled out in its application.

Investigations

For reports of sexual abuse that have been sent to the district attorney and returned to the Archdiocese for any reason, and where the Archdiocese has no previous substantiated allegation against that individual, the services of an independent investigator are retained so that clear data can be provided and a final judgment can be reached with regard to the allegation.

Diocesan Review Board

A Diocesan Review Board, which oversees the Archdiocese of Milwaukee's response to clergy sexual abuse, was appointed by Archbishop Dolan and has met regularly since January 2003.

Appointed to three-year board terms are Rev. James E. Connell, an Archdiocese of Milwaukee priest; Hannah C. Dugan of Milwaukee, an attorney with the Legal Aid Society of Milwaukee; Margaret A. Farrow of Pewaukee, the former Wisconsin Lieutenant Governor; Dr. Charles Lodl, Ph.D. of Mequon, a clinical psychologist in private practice, and Donald J. Schuenke of Elm Grove, retired chairman of Northwestern Mutual.

The board's mandate was outlined in an appointment letter issued to each member by Archbishop Dolan. In that letter, the archbishop asks the board to:

- Assess future allegations of sexual abuse of minors;
- Provide counsel regarding suitability for ministry;
- Review diocesan policies for dealing with sexual abuse allegations to make sure they are in line with the promises given in the Charter and Norms adopted by the nation's bishops and approved by the Holy See;
- Offer counsel on all aspects of sexual abuse cases, whether retrospectively or prospectively.

National Review Board Audit

An audit of the Archdiocese of Milwaukee's compliance with the Charter adopted by the U.S. Bishops at their Dallas meeting in June 2002, occurred in early September 2003, by representatives of the Gavin Group, the independent audit agency selected by the USCCB Office for Child and Youth Protection. The initial report from the audit team was positive, noting that the Archdiocese of Milwaukee is in full compliance with the Dallas Charter. A complete report will be issued for every diocese in the United States in early 2004.

Community Advisory Board

During this past year, the entire advisory board for the Archdiocesan response to clergy sexual abuse has been revamped. The Community Advisory Board reviews and improves the response of the Church to victims-survivors of clergy sexual abuse. Members of the Community Advisory Board include victims-survivors of clergy sexual abuse, victim advocates, professional psychologists and therapists who work with sexual abuse victims or perpetrators, and members of the Archdiocesan staff. The board makes policy recommendations to the Diocesan Review Board. It currently has two committees – one

working with the implementation of a safe environment program and another that reviews the therapy and assistance programs and treatment plans for victims-survivors of clergy sexual abuse of a minor.

The members of the Community Advisory Board are Maryann Clesceri, Kathy Coffey-Guenther, Archbishop Timothy M. Dolan, Scot Edgerton, Marilyn Gierczak, Ginger Halgison, Sr. Mary Howard Johnstone, Marie Kingsbury, Diane Knight, Dr. Anthony Meyer, Dr. Barbara Reinke, Rev. James Schuerman, Auxiliary Bishop Richard J. Sklba, Kathy Walter, and Scott Weyda.

Protection of Children / Safe Environment Program

The Archdiocese has adopted a safe environment program to be implemented in all parishes and schools during the 2003-2004 school year. The program has three main components. First, there is mandatory training of all paid personnel and volunteers who work with children. This training is conducted through VIRTUS, a nationally known program. Second, there is age-appropriate abuse prevention education in all school and religious education classrooms to teach children to recognize, resist and report abuse. Finally, April will be designated "Abuse Prevention Month" within the Archdiocese, which will create a framework for enhancing awareness of sexual abuse through homilies, religious education and other events for parents and the parish community.

Allegations

As far back as our records indicate and with acknowledgment that the Archdiocese's record keeping system has some deficiencies, we have identified between 200 and 250 individuals who have contacted and utilized the services of the Office for Sexual Abuse Prevention and Response Services, formerly known as Project Benjamin, between 1994 and May 31, 2002. In addition there have been approximately 50 individuals who have come forward from June 1, 2002 through June 30, 2003.

Of all sexual abuse allegations brought forth, only two people have reported allegations of sexual abuse of a minor occurring after 1990. All of the remaining reports deal with allegations of incidents that occurred before 1990.

In addition, of all the priests against whom allegations were presented since January 1, 2002, six priests were not previously known to the Archdiocese. Of those six priests previously not known to the Archdiocese, three are dead, one was retired, and two have since been removed from ministry and their cases are being presented to the Vatican for laicization, according to the rigorous policy adopted in the Charter.

Accountability for Perpetrators

Any priest, deacon or pastoral minister judged by civil authorities or the independent investigator and Review Board to have sexually abused a minor will not be allowed to serve in any ministerial capacity or hold any pastoral office. The Archdiocese of Milwaukee is fully implementing the Charter for the Protection of Children and Young People approved by the Vatican in December 2002.

In total, as of September 1, 2003, there have been allegations of sexual abuse of a minor against 55 diocesan priests and three diocesan deacons. For priests, 10 of these allegations have not been substantiated. Of the 45 substantiated cases: 15 priest offenders are dead; six left active ministry or sought laicization prior to 2002; Archbishop Dolan is requesting administrative laicization from the Holy Father for seven; five are seeking voluntary laicization. Laicization is the Church's legal process that results in a priest being returned to the "lay state." That is, they no longer are considered clergy and no longer exercise priestly ministry or hold any rights of priests.

In addition, an administrative precept, which restricts all ability to function or identify oneself as a priest is being imposed on six more individuals because of their advanced age or ill health. A canonical penal trial is being requested for four other cases. One case is in Rome on appeal from the 1990s and one case is pending review by the Diocesan Review Board.

Of the 30 living priest offenders, 15 have been publicly identified by the Archdiocese, by victims-survivors or by the media. In addition, six others are of advanced age or are in serious ill health. Five were laicized before 2002, leaving four individuals that are not publicly known.

In addition, all files of living priests against whom an allegation of sexual abuse has been made, have been reviewed by the Milwaukee County district attorney.

Of the deacons who have had allegations of sexual abuse of a minor, one is dead; one is no longer in active ministry; and one allegation is currently pending resolution.

Monitoring Program

To monitor priests who have substantiated allegations of sexual abuse of a minor and are no longer serving as priests in any capacity, the Archdiocese has a monitoring program overseen by the Vicar for Clergy. All monitors report to the Vicar for Clergy. Monitors do the following:

- Meet with their assigned perpetrator at least once per month with a detailed meeting report submitted to the Vicar for Clergy;
- Initiate regular telephone contact with the perpetrator;
- Report to the Vicar for Clergy any suspected change in mental and/or physical health;
- Recruit individuals that live or work in the geographical proximity to the perpetrator to assist in monitoring the perpetrator;
- Meets bi-weekly with the Vicar for Clergy to provide updates on the perpetrator.

Annual Financial Report

In February 2003, a complete annual financial report was mailed to every registered Catholic household in the Archdiocese of Milwaukee and posted to the Archdiocese of Milwaukee web site. Its availability was communicated

to all parishes and to parishioners through both bulletin inserts and weekly elementary school communication packets. The financial statements are presented to the Archdiocesan Finance Council for review. A similar report will be produced and distributed through parishes and on the Archdiocesan web site for fiscal year 2002-2003.

Financial Impact

In the fiscal year ending June 30, 2003, the financial impact of sexual abuse cases involving a priest and a minor was \$777,392.65. This includes \$152,954.22 for therapy-related and victim assistance costs; \$115,000 for pastoral mediation agreements; \$3,358 for mediator fees for pastoral mediation; \$68,021.02 for general attorney fees; and \$5,588.23 for the victims-survivors dialog sessions at the Midwest Airlines Center in October 2002.

In addition, \$432,471.18 was spent on attorney fees involving three cases where litigation was filed against the Archdiocese.

These expenses are paid for by monies accumulated in the Properties and Building Fund. No money from the Catholic Stewardship Appeal, from parish resources, or from any funds solicited or designated for other purposes are used to pay the costs associated with clergy sexual abuse of minors.

Catholic Stewardship Appeal

Gifts to the Catholic Stewardship Appeal have not and will not be used for legal settlements. Rather, contributions are used to meet the educational, spiritual and social justice needs of individuals, families, parishes and schools. The annual Catholic Stewardship Appeal funds pastoral ministries that touch the lives of nearly 700,000 Catholics who are the Church in southeastern Wisconsin.

More Information

Additional information about Archdiocesan policies and procedures, the Archdiocesan Finance Council, financial information, information about the Catholic Stewardship Appeal is available on the Archdiocese of Milwaukee web site at www.archmil.org.

Conclusion

The Church remains committed to making progress on these issues. Today, the Archdiocese of Milwaukee can say it has completely reviewed all of its policies and procedures, strengthened its programs for preventing sexual abuse of minors by Church personnel, and is better responding to victims-survivors of clergy sexual abuse. Working together with a sense of openness, truthfulness, responsiveness and engagement, trust can be restored and maintained, and the Church strengthened through our faith and our constructive, compassionate actions.

We pray for healing for all those who have suffered because of this crisis and ask that you continue to keep the Church of southeastern Wisconsin in your prayers.

Testimony as part of the Joint Hearing for SB207 and AB428, September 18, 2002

Presented by:

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Thank you for this opportunity to testify. My name is Patti Herman, and I am the Executive Director of Prevent Child Abuse Wisconsin, a non-profit that works to strengthen child abuse prevention efforts throughout the state.

Our organization endorses the bill as a first step, but we think it doesn't do enough to protect children.

Let me start with a few numbers. One in four females in this country and one in seven males will be sexually abused by the age of eighteen. The vast majority of cases – an estimated 84% - go undisclosed. That is an unconscionable amount of children who are being victimized in this way, and we as a state need to take steps to make it stop, whether the abuse is by clergy or, more often, by a member of the child's own family or someone well known to the child. But it's not just about child sexual abuse. In 2001 in Wisconsin there were more than 40,000 reports of child abuse or neglect, and 17 children died of abuse or neglect in Wisconsin in that year. Children need adults to take responsibility for putting an end to the nightmare that is child abuse and neglect. This legislation has the potential to help adults take that responsibility.

Our primary concern with this bill is that it doesn't do enough to address prevention of child abuse and neglect. The proposed legislation only gets at prevention by threat of prosecution of individuals and threat of civil liability to institutions. While we can hope that these threats will lead to better education of clergy on the issues of child abuse and neglect, we believe that the bill should contain a provision that requires education for all clergy members on how to prevent child abuse and neglect as well as how to recognize and report it. We are heartened to see that the Roman Catholic Conference of Bishops has established an Office of Child and Youth Protection which includes creation of a "safe environments program" in each diocese and we hope that other religious organizations are also taking such steps. This could be a model for language that could be added to this bill to strengthen its ability to make a difference in preventing child abuse from happening in the first place, instead of focusing on prosecution after abuse has occurred.

The bill seems to be written with a particular religious organizational structure in mind, one in which there is a hierarchy that has responsibility for overseeing the education and conduct of its clergy. Not all religious institutions have this type of hierarchy. We think there needs to be continued discussion about how clergy working in religious institutions

that lack a hierarchical structure will receive the necessary education about abuse and neglect AND will receive some oversight with the goal of early detection of potentially abusive situations.

We agree with expanding the definition of mandated reporter to include clergy. However, we would like the legislation to designate clergy as mandated reporters of ALL types of child abuse and neglect, not just sexual abuse of children as indicated by the proposed legislation. As part of that mandatory reporter status there should be a requirement that all clergy receive education on child abuse and neglect recognition and reporting. Children need adults to be their voice and to take steps to make the abuse stop. They are often unable to tell others when they are being abused, either because of manipulation or threats by the abuser, the child's age, or the child's lack of language skills to talk about what has been done to them.

While we agree with including clergy as mandated reporters, we do not agree with granting an exemption to mandated reporting if the information is received solely through confidential communications made privately or in a confessional setting. There is clear public policy in this country that children's safety takes precedence over other considerations. For example, while the therapist-client relationship is seen as confidential, there is no exemption for therapists – who are also mandated reporters - if they learn of possible child abuse in the therapy setting. We believe that children's safety supercedes the traditions of religious institutions, and we think this exemption should not be included in the legislation.

While it is important to find ways to motivate religious organizations to supervise their clergy more carefully, it may not be in anyone's best interest to make religious organizations financially vulnerable. Religious organizations are funded by their members and exist to provide spiritual and charitable services to their members and the community at large. The state gives religious organizations tax breaks because it thinks it is important that they do these things and we should be very careful about diminishing their ability to do them. Religious institutions may be forced pay high insurance premiums to protect against lawsuits or spend large sums to defend against these lawsuits or to pay judgments. We would like to see them using more of those resources to support and protect children and families.

While this bill is a good first step, it's not going to make much of a difference as it's currently written. If child sexual abusers and the institutions that shelter them aren't deterred by existing civil and criminal penalties, this bill won't do much more to deter them. It does nothing to protect children from physical or emotional abuse or neglect. We need this body to pass AND FUND legislation that provides education and support for vulnerable children, their families, and the institutions – including religious institutions – charged with protecting them.

Thank you very much.

Wisconsin Council of Churches
Testimony in support of AB 428 and SB 207
The Rev. Dr. Lucille Rupe

My name is Lucille Rupe and I am the Executive Presbyter of the Presbytery of Winnebago, Presbyterian Church (U.S.A.). I am here representing the Wisconsin Council of Churches, which includes 12 Protestant and Christian Orthodox denominations—the Presbyterian Church (U.S.A.), the Evangelical Lutheran Church in America, the Episcopal Church, U.S.A., the United Methodist Church, the United Church of Christ, and the American Baptist Churches, among others—comprising approximately 3,000 congregations, and over one million church members throughout Wisconsin.

On behalf of the mainline Protestant and Christian Orthodox communities in this state, I want to express appreciation to Senator Darling and Representative Krusick for their many months of painstaking work in crafting legislation to include clergy among those required to report child sexual abuse and to provide meaningful remedies to those who have been victims of such abuse.

Our member denominations have carefully reviewed this legislation and believe that it represents an important and positive step in codifying the religious community's civic and moral obligations to our children. It respects the diversity of religious traditions in Wisconsin and our many forms of self-government. It establishes clear responsibilities for clergy and real accountability for religious institutions.

It's important for me to note that the major Protestant denominations have implemented a series of measures over the last decade to educate our clergy about sexual abuse and to set up effective internal mechanisms of accountability, including criminal background disclosures of candidates for the ministry. In the Presbyterian Church (U.S.A.) we have established standards of ethical conduct for our members, employees, and volunteers, and our ordained officers, which include deacons, elders, and ministers. Our church's constitution outlines a disciplinary process to be followed when a breach of ethical conduct has occurred.

We support the designation of clergy as mandated reporters, not just as a civic duty, but as part of our moral commitment to the care and protection of God's children.

In addition to mandated reporting for clergy, this bill provides significant legal remedies for victims of child sexual abuse, which we also support. This legislation permits a victim to pursue justice against a member of the clergy, and it permits a victim to pursue justice against the employing religious organization. These are significant protections that say to victims of sexual abuse: religious institutions and their clergy are accountable for their actions.

We also recognize that current law is inadequate with the respect to the Statute of Limitations concerning child abuse that has occurred in the past. All too often victims and survivors are unable to come forward immediately after discovering an injury.

We are aware that this is a terribly sensitive and painful issue for many. People have been wounded by the actions of a few who carry the mantle of religious leadership. Victims should have the right to pursue legal remedy.

While we support an expanded Statute of Limitations, we also support a clear statutory boundary. Without such a boundary, cases can be brought where the alleged perpetrators and corroborating witnesses may be deceased, or are brought so long after the fact that finding the truth is hopelessly difficult.

We know this is a delicate balance. This legislation, in our view, strikes a reasonable middle ground. It recognizes that current law does not go far enough and expands the statutes to 35 years of age for civil actions and 45 years of age for criminal actions. At the same time it also establishes a clear statutory boundary which we think is fair. We commend the bill authors for their many months of hard work in finding this middle ground.

Finally, let me say that we are already making plans for implementing this bill. We will be collaborating across denominational lines and plan to offer mandatory reporter training to all of our clergy in the State of Wisconsin, beginning early next year. We will take very seriously these new responsibilities.

The protection of our children is not just a matter of codifying legal responsibilities. This is a much higher calling. For those of us in the religious community, we view children as God's most precious creation. Their care, their nurture, their well being, and their protection from harm is a task entrusted to us by God. We are thoroughly committed to that calling.

Thank you for your time.