

2019 DRAFTING REQUEST

Bill

For: **Chris Taylor (608) 266-5342** Drafter: **eshea**
 By: **Herself** Secondary Drafters:
 Date: **3/19/2019** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Taylor@legis.wisconsin.gov**
 Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**
Elizabeth.wheeler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Clergy as mandatory reporters of child abuse

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	eshea 3/19/2019	anienaja 3/21/2019			
/P1	eshea 7/24/2019		dwalker 3/21/2019		
/1	ewheeler 8/7/2019	csicilia 8/7/2019	mbarman 8/1/2019		
/2	ewheeler 8/7/2019	csicilia 8/7/2019	dwalker 8/7/2019		
/3			dwalker	dwalker	

Vers. Drafted

Reviewed

Submitted
8/7/2019

Jacketed
8/20/2019

Required

FE Sent For:

Not Needed

<END>



3/19/19

Rep Taylor

New draft - add clergy to mandatory reporter list
Remove entire exception, but keep requirement
to report under (2)(b)(2) and expand to all abuse

Privilege - need exception? yes

Shea, Elisabeth

From: Shea, Elisabeth
Sent: Tuesday, March 19, 2019 12:46 PM
To: Taylor, Chris
Subject: Mandatory reporting

Categories:

Rep. Taylor,

We discussed whether an exception may need to be made if there is a privilege under current law for communications with a clergy member. There is such a privilege under s. 905.06, but there is already an exception under sub. (4) of that section for information or observations that a clergy is required to report as suspected or threatened child abuse under s. 48.981 (2) (bm). Therefore, I think the existing draft (LRB-1621) needs no change, because the clergy provisions remain under sub. (2) (bm). The new draft will need a change to reflect the fact that clergy will be listed under sub. (2) (a). Here is the relevant privilege provision:

905.06 Communications to members of the clergy.

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

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

(b) A communication is "confidential" if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

(2) GENERAL RULE OF PRIVILEGE. A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a member of the clergy in the member's professional character as a spiritual adviser.

(3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the person, by the person's guardian or conservator, or by the person's personal representative if the person is deceased. The member of the clergy may claim the privilege on behalf of the person. The member of the clergy's authority so to do is presumed in the absence of evidence to the contrary.

(4) EXCEPTIONS. There is no privilege under this section concerning observations or information that a member of the clergy, as defined in s. 48.981 (1) (cx), is required to report as suspected or threatened child abuse under s. 48.981 (2) (bm) or as a threat of violence in or targeted at a school under s. 175.32.

Lis

Elisabeth H. Shea

Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 504-5885
elisabeth.shea@legis.wisconsin.gov

Shea, Elisabeth

From: Henney, Cara
Sent: Thursday, August 01, 2019 12:35 PM
To: Shea, Elisabeth
Subject: LRB 2503

Hi Liz,

Very exciting news. We are ready for the /1 of our mandatory reporting bill and we are going with LRB 2503.

Thank you!
Cara

Cara Henney

Pronouns: she, her, hers

Office of Representative Chris Taylor

PO Box 8953

Madison, WI 53708

(608) 266-5342

[Twitter.com/christaylorwi](https://twitter.com/christaylorwi)

[Facebook.com/representative.taylor](https://facebook.com/representative.taylor)





State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2503/P1
EHS:amn
①
No Change

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 48.981 (2) (bm) 1. and 3.; **to consolidate, renumber and**
2 **amend** 48.981 (2) (bm) 2. (intro.), a. and b.; **to amend** 905.06 (4); and **to create**
3 48.981 (2) (a) 31. of the statutes; **relating to:** the duty of a member of the clergy
4 to report child abuse and neglect.

Analysis by the Legislative Reference Bureau

This bill expands the types of child abuse and neglect that a member of the clergy is required to report and eliminates from the reporting requirement the exception for information obtained through confidential communications.

Current law requires a member of the clergy who has reasonable cause to suspect that a child seen in the course of his or her professional duties has been the victim of sexual assault, sexual exploitation, indecent exposure, or sex trafficking; has been caused to view or listen to sexual activity; or has been permitted, allowed, or encouraged to engage in prostitution (collectively, sexual abuse), or that such a child has been threatened with sexual abuse and that sexual abuse will likely occur, to immediately report that suspected or threatened sexual abuse to certain county or state agencies or a law enforcement agency. This bill expands this reporting requirement to include any abuse or neglect, not only sexual abuse. Current law similarly requires a member of the clergy who has reasonable cause to suspect that a member of the clergy has sexually abused a child, or that a member of the clergy has threatened to sexually abuse a child and that sexual abuse of the child will likely occur, to immediately report that suspected or threatened sexual abuse to the appropriate county or state agency or a law enforcement agency. This bill expands this reporting requirement to include any abuse, not only sexual abuse.

1 (1) CHILD SEXUAL ABUSE REPORTING BY MEMBER OF THE CLERGY. This act first
2 applies to observations made or information received by a member of the clergy, as
3 defined in s. 48.981 (1) (cx), on the effective date of this subsection.

4

(END)

Hanaman, Cathlene

From: Henney, Cara
Sent: Wednesday, August 07, 2019 8:12 AM
To: Hanaman, Cathlene; Johns, Melinda
Cc: Shea, Elisabeth
Subject: Urgent: LRB 2503
Attachments: 19-2503_1 (2).pdf

Hi Cathlene and Melinda,

I left this all in a voicemail for Cathlene, but I see that Lis Shea is out right now and she was working on LRB 2503 for us regarding making members of the clergy mandatory reporters of child abuse. As it is drafted now, I believe it includes child abuse, sexual abuse, and neglect. Due to concerns raised by religious community members in a last minute conversation about the bill, Rep. Taylor would like to remove neglect from the list of mandated reporting requirements. Lis and I had discussed how there is an exemption for neglect due to poverty, but there are still folks out there who are uncomfortable with it as many people experiencing poverty will go to a church first for help.

Could you please redraft the bill that is otherwise identical, but does not include mandatory reporting for neglect? Also, I am sorry to do this, and I feel like we are always making rushed requests, but could we please have it by about 10-10:30 today. Rep. Taylor is rolling it at a press conference at 11 am this morning.

Thank you so much,
Cara

Cara Henney

Pronouns: she, her, hers

Office of Representative Chris Taylor

PO Box 8953

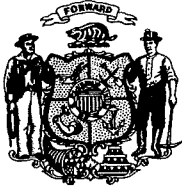
Madison, WI 53708

(608) 266-5342

[Twitter.com/christaylorwi](https://twitter.com/christaylorwi)

[Facebook.com/representative.taylor](https://facebook.com/representative.taylor)





State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2503/1 /2
EHS:amn
*gs

8/7
Now

2019 BILL

insert

Gen Cat

statamp
x-regs
GAV

1 AN ACT *to repeal* 48.981 (2) (bm) 1. and 3.; *to consolidate, renumber and*
2 *amend* 48.981 (2) (bm) 2. (intro.), a. and b.; *to amend* 905.06 (4); and *to create*
3 48.981 (2) (a) 31. of the statutes; **relating to:** the duty of a member of the clergy
4 to report child abuse and neglect.

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This bill expands the types of child abuse and neglect that a member of the clergy is required to report and eliminates from the reporting requirement the exception for information obtained through confidential communications.

Current law requires a member of the clergy who has reasonable cause to suspect that a child seen in the course of his or her professional duties has been the victim of sexual assault, sexual exploitation, indecent exposure, or sex trafficking; has been caused to view or listen to sexual activity; or has been permitted, allowed, or encouraged to engage in prostitution (collectively, sexual abuse), or that such a child has been threatened with sexual abuse and that sexual abuse will likely occur, to immediately report that suspected or threatened sexual abuse to certain county or state agencies or a law enforcement agency. This bill expands this reporting requirement to include any abuse or neglect, not only sexual abuse. Current law similarly requires a member of the clergy who has reasonable cause to suspect that a member of the clergy has sexually abused a child, or that a member of the clergy has threatened to sexually abuse a child and that sexual abuse of the child will likely occur, to immediately report that suspected or threatened sexual abuse to the

BILL

appropriate county or state agency or a law enforcement agency. This bill expands this reporting requirement to include any abuse, not only sexual abuse. ✓

Current law provides that a member of the clergy is not required to report information relating to suspected or threatened sexual abuse of a child that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and if, under the disciplines, tenets, or traditions of his or her religion, he or she has a duty or is expected to keep those communications secret. The bill eliminates from the reporting requirement the exception for information obtained through confidential communications.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.981 (2) (a) 31. of the statutes is created to read:

2 48.981 (2) (a) 31. A member of the clergy.

3 **SECTION 2.** 48.981 (2) (bm) ^{1. and 3.} of the statutes ^{is} ~~are~~ repealed.] *3ove*

4 **SECTION 3.** 48.981 (2) (bm) 2. (intro.), a. and b. of the statutes are consolidated, *2.*
5 renumbered 48.981 (2) (bm) and amended to read:

6 48.981 (2) (bm) ^{2.} Except as provided in ~~subd. 3. and~~ subs. (2m) and (2r), a
7 member of the clergy shall report as provided in sub. (3) if the member of the clergy
8 has reasonable cause, based on observations made or information that he or she
9 receives, to suspect that a member of the clergy has ~~done any of the following:~~ a.
10 ~~Abused~~ abused a child, as defined in s. 48.02 (1) (b) to (f). b. ~~Threatened or~~
11 threatened a child with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child
12 will likely occur.

13 **SECTION 4.** 905.06 (4) of the statutes is amended to read:

14 905.06 (4) EXCEPTIONS. There is no privilege under this section concerning
15 observations or information that a member of the clergy, as defined in s. 48.981 (1)
16 (cx), is required to report as suspected or threatened child abuse under s. 48.981 (2)
17 (a) or (bm) or as a threat of violence in or targeted at a school under s. 175.32.

*INS
2-4*

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2503/lins
EAW:amn

INS 2-4

SECTION 1. 48.981 (2) (bm) 1. (intro), a. and b. of the statutes are consolidated, renumbered 48.981 (2) (bm) 1. and amended to read:

48.981 (2) (bm) 1. Except as provided in subd. ~~3.~~ and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties: ~~a. Has has been abused, as defined in s. 48.02 (1) (b) to (f); or b. Has or has been threatened with abuse, as defined in s. 48.02 (1) (b) to (f);~~ and abuse of the child will likely occur.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 76, 78, 79, 94, 185; 2011 a. 32, 81, 87; 2013 a. 20, 170, 261; 2015 a. 55, 172; 2015 a. 197 s. 51; 2015 a. 365, 367, 381; 2017 a. 12, 47, 59; 2017 a. 364 ss. 6, 49; 2017 a. 365 ss. 25, 111.

Wheeler, Elizabeth

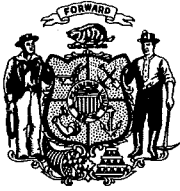
From: Shea, Elisabeth
Sent: Wednesday, August 07, 2019 10:06 AM
To: Wheeler, Elizabeth
Subject: Fwd: One more change

Begin forwarded message:

From: Rep.Taylor <Rep.Taylor@legis.wisconsin.gov>
Date: August 7, 2019 at 9:55:03 AM CDT
To: "Shea, Elisabeth" <Elisabeth.Shea@legis.wisconsin.gov>
Subject: One more change

Hi Elisabeth, I'm so sorry but could you make one more change for us? I do want to define abuse to make clear we are talking only the physical or sexual abuse of children. We need to incorporate a definition of child abuse that is slightly different than 48.02 in the following way:

I want child abuse to only refer under 48.02 (1)(a) the physical abuse of a child (not unborn child— please exclude (1) (am)) and to also refer to all of the sexual abuse provisions in (b) (c) d e and (f). I do not want any of the other sections, including (g) or (gm). Thanks again and I'm sorry for these changes! Chris



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2503/2
EHS:amn&cjs

now

0/3
stays

2019 BILL

8/7

Gen Cat

1 **AN ACT to repeal** 48.981 (2) (bm) 3.; and **to consolidate, renumber and amend**
2 48.981 (2) (bm) 1. (intro), a. and b. and 48.981 (2) (bm) 2. (intro.), a. and b. of the
3 statutes; **relating to:** the duty of a member of the clergy to report child abuse.

Analysis by the Legislative Reference Bureau

This bill expands the types of child abuse that a member of the clergy is required to report and eliminates from the reporting requirement the exception for information obtained through confidential communications.

Current law requires a member of the clergy who has reasonable cause to suspect that a child seen in the course of his or her professional duties has been the victim of sexual assault, sexual exploitation, indecent exposure, or sex trafficking; has been caused to view or listen to sexual activity; or has been permitted, allowed, or encouraged to engage in prostitution (collectively, sexual abuse), or that such a child has been threatened with sexual abuse and that sexual abuse will likely occur, to immediately report that suspected or threatened sexual abuse to certain county or state agencies or a law enforcement agency. This bill expands this reporting requirement to include any abuse, not only sexual abuse. Current law similarly requires a member of the clergy who has reasonable cause to suspect that a member of the clergy has sexually abused a child, or that a member of the clergy has threatened to sexually abuse a child and that sexual abuse of the child will likely occur, to immediately report that suspected or threatened sexual abuse to the appropriate county or state agency or a law enforcement agency. This bill expands this reporting requirement to include any abuse, not only sexual abuse.

physical physical

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Current law provides that a member of the clergy is not required to report information relating to suspected or threatened sexual abuse of a child that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and if, under the disciplines, tenets, or traditions of his or her religion, he or she has a duty or is expected to keep those communications secret. The bill eliminates from the reporting requirement the exception for information obtained through confidential communications.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.981 (2) (bm) 1. (intro), a. and b. of the statutes are consolidated,
2 renumbered 48.981 (2) (bm) 1. and amended to read:

3 48.981 (2) (bm) 1. Except as provided in ~~subd. 3. and subs. (2m) and (2r)~~, a
4 member of the clergy shall report as provided in sub. (3) if the member of the clergy
5 has reasonable cause to suspect that a child seen by the member of the clergy in the
6 course of his or her professional duties: ~~a. Has has been abused, as defined in s. 48.02~~
7 ~~(1) (b) to (f); or b. Has or has been threatened with abuse, as defined in s. 48.02 (1)~~
8 ~~(b) to (f), and abuse of the child will likely occur.~~

9 **SECTION 2.** 48.981 (2) (bm) 2. (intro.), a. and b. of the statutes are consolidated,
10 renumbered 48.981 (2) (bm) 2. and amended to read:

11 48.981 (2) (bm) 2. Except as provided in ~~subd. 3. and subs. (2m) and (2r)~~, a
12 member of the clergy shall report as provided in sub. (3) if the member of the clergy
13 has reasonable cause, based on observations made or information that he or she
14 receives, to suspect that a member of the clergy has ~~done any of the following:~~ a.
15 ~~Abused abused a child, as defined in s. 48.02 (1) (b) to (f). b. Threatened or threatened~~
16 ~~a child with abuse, as defined in s. 48.02 (1) (b) to (f), and abuse of the child will likely~~
17 ~~occur.~~

18 **SECTION 3.** 48.981 (2) (bm) 3. of the statutes is repealed.

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SECTION 4. Initial applicability.

(1) CHILD SEXUAL ABUSE REPORTING BY MEMBER OF THE CLERGY. This act first applies to observations made or information received by a member of the clergy, as defined in s. 48.981 (1) (cx), on the effective date of this subsection.

(END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2503/2ins
EHS:amn&cjs
EAW

INS 2-1

SECTION 1. 48.981 (2) (bm) 1. and 2. of the statutes are amended to read:

48.981 (2) (bm) 1. Except as provided in ~~subd. 3.~~ and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties:

a. Has been abused, as defined in s. 48.02 (1) (a) or (b) to (f); or

b. Has been threatened with abuse, as defined in s. 48.02 (1) (a) or (b) to (f), and abuse of the child will likely occur.

2. Except as provided in ~~subd. 3.~~ and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has done any of the following:

a. Abused a child, as defined in s. 48.02 (1) (a) or (b) to (f).

b. Threatened a child with abuse, as defined in s. 48.02 (1) (a) or (b) to (f), and abuse of the child will likely occur.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 76, 78, 79, 94, 185; 2011 a. 32, 81, 87; 2013 a. 20, 170, 261; 2015 a. 55, 172; 2015 a. 197 s. 51; 2015 a. 365, 367, 381; 2017 a. 12, 47, 59; 2017 a. 364 ss. 6, 49; 2017 a. 365 ss. 25, 111.

Walker, Dan

From: Henney, Cara
Sent: Tuesday, August 20, 2019 1:39 PM
To: LRB.Legal
Cc: McMorrow, Aidan
Subject: Draft Review: LRB -2503/3

Hello,

Please Jacket LRB -2503/3 for the ASSEMBLY. Please send a companion to Senator Taylor in the Senate.

Thank you,
Cara