

## ***CLERGY REPORTING LAW (CA)***



AB3354 amends Section 11166 of the Penal Code by:

- (1) adding members of the clergy to the list of mandated reporters ('clergy member' means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized religious denomination or organization").
- (2) exempting knowledge or reasonable suspicion of child abuse acquired during a penitential communication\* from the mandate to report.
- (3) defining a "penitential communication" as a "communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who ... is authorized or accustomed to hear those communications, and under the discipline, tenets, customs or practices of his or her church (sic), denomination, or organization, has a duty to keep those communications secret."
- (4) specifying that "nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse when he or she is acting in the capacity of a child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, humane society officer, or commercial film print processor."
- (5) Adding clergy members to the list of permissive child abuse reporters for mental or emotional abuse.

Advantages to Clergy as Mandated Reporters:

- (a) Clergy shall now be able to find out the "results of the (child abuse) investigation and of any action the (child protective or law enforcement) agency is taking with regard to the child or family"  
(existing law cited in AB3354, page 1).
- (b) Clergy shall now be protected from "civil or criminal liability" for reporting child abuse (existing law cited in AB3354, page 2).
- (c) Congregations or supervisors shall not be allowed to sanction clergy who report [11166(h) provides that "no person making a report shall be subject to any sanction for making the report."]

\*Evidence Code Section 1032 provides:

As used in this article "penitential communication" means a communication made in confidence, in the presence of no third person so far as the penitent is aware, to a clergyman (sic) who, in the course of the discipline or practice of his (sic) church (sic), denomination, or organization, is authorized or accustomed to hear such communications and, under the discipline or tenets, of this church (sic), denomination, or organization, has a duty to keep such communications secret.  
(Stats. 1965, c. 299)

The underlined language of the Evidence Code definition, requiring that no third person may be present when the penitential communication is made, is not provided for in the definition of AB 3354.