

**KANSAS LAW SUMMARY**  
**(October 12, 1993)**

The following is a summary of Kansas law about reporting and other requirements relating to child abuse.

1. Who Must Report? According to Kansas State Law (K.S.A. 38-1522) when there is reason to suspect a child has been injured as the result of physical, mental or emotional abuse or neglect or sexual abuse, a report must be made by the following persons:  
“Persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed psychologists; licensed professional or practical nurses examining, attending or treating a child under the age of 18; teachers, school administrators or other employees of a school which the child is attending; chief administrative officers of medical care facilities; registered marriage and family therapists; persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; licensed social workers, fire fighters; emergency medical services personnel, mediators appointed under K.S.A. 23-602 and amendments thereto; and law enforcement officers.”
2. Staff Pastors must report when they are responsible for the care or supervision of children, when they fall into any of the categories mentioned above or in Section IV.1 of the Guidelines for Implementation of the Policy on Alleged Sexual Abuse of Children of Hillside Christian Church. Kansas law does not say clergy must report simply because they are clergy.
3. What Requires A Report? A report must be made when a person has reason to suspect that a child has been injured through physical, mental or emotional abuse, or neglect or sexual abuse.
4. Summary of Legal Definitions:  
“Child” refers generally to any person under 18 years of age.  
“Abuse” minimally includes any or all of the following:
  1. physical, mental or emotional injury inflicted on a child;
  2. sexual contact or intercourse;
  3. sexual exploitation of a child.
5. To Whom Must the Report Be Made: Reports - oral or written - are made to the Kansas State Department of Social and Rehabilitation Services (SRS). When this department is not open for business, the report is made to the appropriate law enforcement agency. (K.S.A. 38-1522(c). The person reporting may speak with the church attorney beforehand.

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6. Willful and knowing failure to report is a Class B Misdemeanor. (K.S.A. 38-1522 (f)) Preventing or interfering with the making of a report required by the law is also a Class B Misdemeanor. (K.S.A. 38-1522 (g)).

7. Under Kansas law (K.S.A. 38-1526), anyone participating without malice in the making of an oral or written report on the abuse of a child, or in any follow-up investigation of the report shall have immunity from any civil liability that might otherwise be incurred or imposed. Such a participant has the same immunity with respect to participating in a judicial proceeding resulting from the report.

8. Kansas law (K.S.A. 60-429) recognizes as privileged what the statute defines as a “penitential communication.”

“A person, whether or not a party, has a privilege to refuse to disclose, and to prevent a witness from disclosing a communication if he or she claims the privilege and the judge finds that (1) the communication was a penitential communication, (2) the witness is the penitent or the minister, and (3) the claimant is the penitent, or the minister making the claim on behalf of an absent penitent.” (K.S.A. 60-429 (b))

9. Clergy should keep in mind that Kansas law does not REQUIRE them to report, unless they are functioning in one of the positions listed in K.S.A. 38-1522. See paragraph 1 above. The law clearly protects the clergy/penitent and confessional secrecy.

The statutory definition of penitential communication appears broader in scope, moreover, than a strictly sacramental and confessional communication: it protects a broader class of communications from disclosure. Nevertheless, a minister may well be subpoenaed to testify about cases of child abuse. He can legitimately be asked for all information obtained outside the embrace of a “penitential communication” as defined by the statute.