

CHAPTER 295

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 02-210

BY SENATOR(S) Fitz-Gerald, Epps, Hanna, Hernandez, Linkhart, Nichol, Pascoe, Phillips, Thiebaut, Tupa, and Windels; also REPRESENTATIVE(S) Boyd, Alexander, Borodkin, Coleman, Daniel, Groff, Hodge, Jameson, Madden, Miller, Ragsdale, Romanoff, Sanchez, Stafford, Tapia, Tochtrop, Vigil, and Williams S.

AN ACT

CONCERNING MANDATORY REPORTING OF CHILD ABUSE OR NEGLECT BY CLERGY MEMBERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 19-3-304 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-3-304. Persons required to report child abuse or neglect. (2) Persons required to report such abuse or neglect or circumstances or conditions shall include any:

(aa) (I) CLERGY MEMBER.

(II) THE PROVISIONS OF THIS PARAGRAPH (aa) SHALL NOT APPLY TO A PERSON WHO ACQUIRES REASONABLE CAUSE TO KNOW OR SUSPECT THAT A CHILD HAS BEEN SUBJECTED TO ABUSE OR NEGLECT DURING A COMMUNICATION ABOUT WHICH THE PERSON MAY NOT BE EXAMINED AS A WITNESS PURSUANT TO SECTION 13-90-107 (1) (c), C.R.S., UNLESS THE PERSON ALSO ACQUIRES SUCH REASONABLE CAUSE FROM A SOURCE OTHER THAN SUCH A COMMUNICATION.

(III) FOR PURPOSES OF THIS PARAGRAPH (aa), UNLESS THE CONTEXT OTHERWISE REQUIRES, "CLERGY MEMBER" MEANS A PRIEST, RABBI, DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTER OF A CHURCH, MEMBER OF A RELIGIOUS ORDER, OR RECOGNIZED LEADER OF ANY RELIGIOUS BODY.

SECTION 2. 13-90-107 (1) (I) (I), Colorado Revised Statutes, as enacted by Senate Bill 02-020, enacted at the Second Regular Session of the Sixty-third General Assembly, is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

13-90-107. Who may not testify without consent. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(1)(I) A parent may not be examined as to any communication made in confidence by the parent's minor child to the parent when the minor child and the parent were in the presence of an attorney representing the minor child, or in the presence of a physician who has a confidential relationship with the minor child pursuant to paragraph (d) of this subsection (1), or in the presence of a mental health professional who has a confidential relationship with the minor child pursuant to paragraph (g) of this subsection (1), or in the presence of a ~~clergyman~~ CLERGY MEMBER, minister, priest, or rabbi who has a confidential relationship with the minor child pursuant to paragraph (c) of this subsection (1). The exception may be waived by express consent to disclosure by the minor child who made the communication or by failure of the minor child to object when the contents of the communication are demanded. This exception does not relieve any physician, ~~or~~ mental health professional, OR CLERGY MEMBER, MINISTER, PRIEST, OR RABBI from any statutory reporting requirements.

SECTION 3. 13-90-107 (1) (c), Colorado Revised Statutes, is amended to read:

13-90-107. Who may not testify without consent. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(c) A ~~clergyman~~ CLERGY MEMBER, minister, priest, or rabbi shall not be examined without both his OR HER consent and also the consent of the person making the confidential communication as to any confidential communication made to him OR HER in his OR HER professional capacity in the course of discipline expected by the religious body to which he OR SHE belongs.

SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to reasonable cause acquired on or after said date; except that section 2 of this act shall only take effect if Senate Bill 02-020 is enacted by the Sixty-third General Assembly and becomes law.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 2002