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## FISCAL IMPACT REPORT

SPONSOR: Taylor DATE TYPED: 2/06/03 HB 247

SHORT TITLE: Clergy Members' Duty to Report Child Abuse SB \_\_\_\_\_

ANALYST: Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

### SOURCE OF INFORMATION

Responses received from  
Office of the Attorney General

### SUMMARY

#### Synopsis of Bill

- House Bill 247 adds “members of the clergy” to the list of professionals having a specific duty to report known, or reasonably suspected, child abuse or neglect to local law enforcement, children’s services agencies or Indian services agencies.
- HB 247 also provides, however, that this duty is subject to the limitation that the communication through which the clergy member became aware of the abuse may be *privileged as a matter of law*.
- HB 247 provides that persons violating their duty under this law are guilty of a misdemeanor and shall be charged and sentenced accordingly.

#### Significant Issues

- If a member of the clergy learns of, or come to suspect, abuse because of a confidential communication with a member of his congregation, such as Confession, the communication would be privileged and the clergy member would have no duty to report it.
- If a clergy member learns of, or comes to reasonably suspect, abuse occurring within the

church (involving a fellow clergy member), the member would have a duty to report the matter. For example, a bishop could no longer ignore complaints regarding a priest for whom he is responsible, particularly if multiple complaints are received. The problem could not be resolved simply by moving the priest to a new parish.

- As part of the FIR process, the Attorney General's Office made a preliminary assessment of the issues that may be raised if this law were to come under a constitutional / First Amendment attack, and has stated that it believes "the exclusion of information that is privileged as a matter of law may well be sufficient to allow it to survive constitutional attack."

### POSSIBLE QUESTIONS

- What if a clergy member learns of, or comes to reasonably suspect, abuse at the hands of a fellow member, but the communication that gives rise to the knowing or suspecting is privileged because the fellow clergy member has shared it as part of a confidential communication, such as the Confession and Absolution process?
- Can a clergy member seek Confession and Absolution from another member, confessing to having abused a child, and the communication be deemed privileged and, thus, not reportable?
- If a child reveals that he or she has been the victim of abuse to a clergy member in the course of a confidential conversation, such as Confession, should that be a privileged communication to which no response is required? Seemingly, a child would not have the same confidentiality expectations as would an adult abuser who is seeking forgiveness or guidance.

SJM/sb:yr