News
Washington Capitol

The Washington Capitol is pictured in Olympia April 11, 2020. Washington state's Catholic bishops asked the federal court to block a new state law they say forces priests to choose between breaking the sacred seal of confession or facing jail time. The law takes effect July 27. (OSV News/Reuters/Jason Redmond)

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The Catholic bishops of Washington state asked a federal court to block a new law requiring clergy to report child abuse or neglect without exceptions for clergy-penitent privilege.

The bishops on June 5 asked the U.S. District Court for the Western District of Washington in Tacoma to issue a preliminary injunction to block enforcement of the law, scheduled to take effect on July 27.

Mark Rienzi, president and CEO of Becket, a religious liberty law firm in Washington, D.C., that is representing the bishops, said in a statement, "Washington state has no business intruding into the confessional — particularly when they give a free pass to lawyers who have legally protected confidential relationships with clients."

"Punishing priests for following the Catholic Church's millennia-old faith traditions isn't just wrong, it's unconstitutional," Rienzi said.

The bishops previously filed a lawsuit with the District Court in response to Democratic Gov. Bob Ferguson's approval of Senate Bill 5375 in May, which designated members of the clergy as mandatory reporters, or people required by law to report suspected or known instances of child abuse or neglect.

A spokesperson for Washington Attorney General Nick Brown did not immediately respond to a request for comment.

The requirements of the legislation signed into law did not include an exception for sacramental confessions. Other mandatory reporters in Washington state include school personnel, nurses, social service counselors and psychologists.

While some have argued the bill addresses an important omission from the state's list of mandatory reporters, others have expressed concern that without exceptions for the clergy-penitent privilege, as similar laws in other states have, Washington state's law could place Catholic priests at odds with civil law in order to uphold church law regarding the seal of the confessional.

The Catechism of the Catholic Church states that priests are strictly forbidden from divulging what penitents tell them during confession and states that information a penitent divulges is under "seal."

The motion for the preliminary injunction noted church teaching on the seal of the confessional, stating, "For centuries, the Roman Catholic Church has taught that the Sacrament of Confession is protected by the sacramental seal, which absolutely forbids a priest from disclosing in any manner and for any reason what the priest hears from a penitent during confession."

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"A priest who directly violates the sacramental seal incurs a *latae sententiae* excommunication — i.e., automatic excommunication — thereby risking eternal damnation. Accordingly, the historical record is replete with examples of Catholic priests choosing death as martyrs rather than succumbing to government demands that they violate the sacramental seal," the motion said. "Given this country's

commitment to religious freedom, legal protection for the sacramental seal has been recognized in the United States for more than 200 years."

The Washington State Catholic Conference, which is the public policy arm of the state's Catholic bishops, previously supported a version of the legislation to make clergy mandatory reporters that did include an exception for hearing confession, part of the sacrament of reconciliation. However, they opposed the version of the legislation that was signed into law.

"Confession is a sanctuary for the human soul and must be kept private not only because it's a sacred duty of Catholic priests, but also to ensure the faithful are free to participate in this act of reconciliation with their God," Jean Hill, executive director of the Washington State Catholic Conference, said in a statement,

"We are hopeful that the court will recognize the law not only punishes priests but sets a dangerous precedent that erodes trust in sacred practices for all faiths," Hill said.

The lawsuit previously filed by the bishops recounts the steps taken by the Catholic Church in the U.S., as well as the dioceses involved in the suit, to eradicate clergy sexual abuse and sexual abuse more broadly.

Policies in each of the three Washington dioceses involved — the Seattle Archdiocese and the Spokane and Yakima dioceses — also require clergy and staff to report suspected abuse to law enforcement. If that information is obtained in the sacrament of confession, the policies require priests to counsel the penitent to self-report, or for the priest to seek the information outside the confessional in order to report it themselves to law enforcement.

Hiram Sasser, executive general counsel for First Liberty Institute, also representing the bishops in the lawsuit, said in a statement, "We are committed to protecting the sacrament of confession and believe the purposes of Washington's mandatory reporting law can be achieved without infringing on the First Amendment rights of clergy."