News

A priest hears confession.

Fr. Lawrence Goode hears confession May 8, 2019, at St. Francis of Assisi Catholic Church in East Palo Alto, Calif. A bill set to take effect July 27 mandates that clergy inform authorities of suspected sex abuse cases, including alleged abuse discussed during the sacrament of reconciliation. (OSV News/CNS file/Chaz Muth)



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Catholic bishops and priests in Washington are challenging a new state law that requires clergy to break the seal of confession to report possible child sex abuse.

The bill, signed by Democratic Gov. Bob Ferguson, a Catholic, in early May, mandates that clergy inform authorities of suspected sex abuse cases, including alleged abuse discussed during the sacrament of reconciliation, or confession.

Backing the three Catholic dioceses in the state, the Justice Department sued Washington state in late June for launching "attacks on the free exercise of religion" and stated that "anti-Catholic" laws violating the confidentiality of confession are unconstitutional. Several Orthodox churches have joined the lawsuit as well. The hearing took place July 14.

Supporters of the law have a different view. Mary Dispenza, a former Catholic nun and a current member of the Survivors Network of those Abused by Priests, or SNAP,

says confession rewards priests for secrecy and that silence protects perpetrators of sex crimes, not victims. "I think this seal of confession is a practice. It's not a mandate from God, as the church would have you believe," Dispenza said.

While the law, set to take effect July 27, has drawn attention and criticism from Catholics, it is broadly written to apply to all clergy. Reports of widespread child sexual abuse hidden by Jehovah's Witnesses in Spokane, Washington, provided the main impetus for drafting the bill.

> 'You cannot possibly defend the seal of confession unless you can show and prove that the space where confession [happens] is safe.'
> —Jesuit Fr. Gerard McGlone
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Jehovah's Witnesses call child sexual abuse "a worldwide plague" and allow people to report criminal allegations to civil authorities. But the Christian denomination known for its door-to-door proselytizing requires that two witnesses must be consulted for a judicial review if the accused denies the allegation. The Witnesses cite Scripture's "high standard of justice," pointing to Deuteronomy 19:15 and Matthew 18:16.

The Jehovah's Witnesses also maintain a confidential database of sex abuse allegations which they refuse to release, unless forced by the state.

William Haun, senior counsel at the Becket Fund for Religious Liberty and one of several plaintiffs' attorneys representing the church in its lawsuit, said the Washington law "represents a core violation of the church's liberty" and infringes upon the institution's First Amendment rights.

"For centuries, the church has protected the seal of confession as a way to ensure that those who seek reconciliation [...] can do so confidently and confidentially," Haun said in an interview. "But Washington state has unfortunately broken with that long-standing venerable tradition."

Haun argues that the state senate bill was expressly written with the intent of "changing the laws" around the sacrament of confession. He said the Washington Catholic dioceses of Spokane and Yakima and the Archdiocese of Seattle all maintain

reporting procedures to protect children from abuse.

"The church can't change the sacramental seal without changing what she received from Christ," Haun said.

Seattle Archbishop Paul Etienne called the law an example of "government overreach" and said it crossed the line between church and state.

The church" agrees with the goal of protecting children and preventing child abuse," Etienne said in a May 4 letter. But, he wrote, "Catholic clergy may not violate the seal of confession — or they will be excommunicated from the Church. All Catholics must know and be assured that their confessions remain sacred, secure, confidential and protected by the law of the Church."

A mosaic image of St. John Nepomucene

A mosaic image of St. John Nepomucene is displayed inside St. John Nepomucene Catholic Church in New York City May 2, 2019. The 14th-century Bohemian saint is considered the first martyr of the seal of confession. (CNS/Chaz Muth)

Dispenza, the former nun, rejects the Justice Department's argument that the Washington law is "anti-Catholic," and said she does not consider her position as opposed to the church. She views the law as "asking the best of Catholicism" by urging the church towards change, particularly in how it celebrates the sacrament of reconciliation.

Dispenza, a survivor of childhood abuse by a Catholic priest, is part of the Catholic Accountability Project, a Seattle-based advocacy group for clergy sex abuse victims that strongly supports the Washington law.

Dispenza said that when she was 18, she told a priest in confession about her abuse, and that her confessor said she should inform her novice mistress. Yet Dispenza didn't feel the priest really tried to help. "That secrecy did nothing for me," Dispenza said. "It caused my abuse to be secret, too."

Battle between church and state

At the heart of this legal case is a conflict between the free exercise clause of the First Amendment, which guarantees religious freedom, and the state's compelling interest to prosecute child sex abuse, said Mark Movsesian, director of the Mattone

Center for Law and Religion at St. John's School of Law in New York. He said that if a law selects religion for "disfavored treatment," the state must prove why the law is necessary and that it is as unrestrictive as possible. Movsesian also said that the Washington law targets clergy-penitent privilege within the sacrament of confession, but does not lift attorney-client privilege in the reporting of abuse cases.

confessional

A confessional is seen in a file photo at the Memorial Church of the Holy Sepulcher on the grounds of the Franciscan Monastery of the Holy Land in Washington. The Department of Justice argued in a July 15 hearing that a Washington state mandatory reporter bill was "anti-Catholic law" for having no exception for the seal of the confessional. (OSV News/Nancy Phelan Wiechec)

"I think it's going to be hard for Washington to say: 'We have a compelling interest in having priests reveal what they learned in confession, but we don't have a compelling interest in making lawyers reveal what they hear in their client's confidence,'" Movsesian said.

Jesuit Fr. Thomas Scirghi, associate professor emeritus of theology at Fordham University, predicts that the Washington law could backfire and discourage people, including sex offenders, from seeking out the sacrament at all. "By rescinding the seal of confession, the person will not confess. I don't see how he would," Scirghi said. "And what good is served by that?"

In criminal cases, Scirghi says, the confessor should urge the person to turn themselves in to civil authorities. Withholding absolution could be considered on a case-by-case basis, but absolution can "strengthen" the person to do what is right. He said that confession is not a "magical" ritual that wipes away guilt, but is rather a sacrament focused on repairing the relationship between the penitent, God and their community. "I think maybe the church needs to make a better case, or give a clearer understanding, of what we do in confession," he said.

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A survivor of clergy sex abuse and the former chief psychologist at the Pontifical North American College in Rome, Jesuit Fr. Gerard McGlone described the sacrament as one rooted in the belief that redemption is possible for people who have committed serious crimes. "The examples of Sts. Peter and Paul give us clear

evidence that even if you've murdered people, even if you've betrayed people, there's always hope for healing," McGlone said. But he said that people must be accountable for their sins and provide some form of restitution to those harmed. He also argued that Catholics should focus on the primary goal "to eradicate all forms of abuse" in society.

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The Jesuit psychologist, who has several years of experience treating sex offenders, also noted that some abusers have used the privacy of the confessional as a place to assault children. Fr. Lawrence Murphy, a priest of the Archdiocese of Milwaukee who sexually abused deaf children for decades, was accused of molesting boys in the confessional. Theodore McCarrick, the former archbishop of Washington defrocked by the Vatican for sex crimes, was also accused of repeatedly abusing at least one child in a confessional.

"You cannot possibly defend the seal of confession unless you can show and prove that the space where confession [happens] is safe," McGlone said.

A tale of tradition and controversy

On the absolute secrecy of confession, church teaching is unequivocal. In 1215, the Fourth Lateran Council decreed that priests could not "betray" penitents by revealing their sins and held that clergy who did break the seal would be exiled to a monastery. The privacy of confession was recognized in early medieval England before the 1066 Norman Conquest. The British academic John Cornwell notes that confession was a public affair in the early church and that Catholics did not relegate celebration of the sacrament to "a dark box" until the mid-16th century.



From left, attorney Mike Finnegan, attorney Jeff Anderson and Tom Doyle discuss Catholic Church records concerning sexual misconduct allegations during a news conference at Anderson Law Offices in St. Paul, Minn., March 25, 2010. A photo of Fr. Lawrence Murphy, who sexually abused students at a renowned school for deaf children from 1950 to 1974, appears on the monitor to the left. (AP/Craig Lassig)

Contemporary teaching draws from this centuries-old tradition. The Apostolic Penitentiary, a Vatican court, published a note in 2019 reaffirming the privacy of confession and condemning legislative attempts to break the seal as "an unacceptable offense" against the freedom of the church. The note, approved by Pope Francis, states that confessors hear sins "not as man, but as God," and that priests must be prepared to defend the seal by their own martyrdom (*usque ad sanguinis effusionem*) if necessary.

In 2022, the Dicastery for the Doctrine of the Faith released a handbook for investigating cases of clergy child sex abuse and again stated that confessors could not reveal even grave sins outside the sacrament. Church guidelines stipulate that

priests may encourage penitents to make their crimes known outside confession, so that civil or canonical authorities can respond.

And the canon law penalty for any priest who violates the seal is automatic excommunication.

The tense, complex relationship between the secrecy of confession and the legal obligation to report suspected crimes has a difficult international history. Jürgen Bartsch, the West German teenager who killed four boys in the 1960s, said in court that he had confessed his first murder to a Catholic priest, who reportedly urged Bartsch to turn himself in to police. But the killer refused, murdered three more children over four years and was ultimately arrested. "In Germany, the trial and its ghastly revelations have stirred a bitter debate on whether the confessional should be inviolate when it is privy to admissions of crime," Time magazine reported in 1967.

Responding to suggestions made by a countrywide commission on child sex abuse in 2017, several Australian states enacted or introduced laws to penalize priests who would not break the seal of confession to report abuse. Numerous Australian bishops signaled that they would ignore the state.

In the United Kingdom, prominent Catholics have criticized new government-backed legislation that would allow no exceptions for Christian clergy to report information about sexual abuse obtained during confessions.

"No priest is going to risk excommunication by breaking the confessional seal — they'd sooner go to prison than bow to such demands," Timothy Guile, chairman of the English Catholic History Association, told OSV News.

California state Sen. Jerry Hill speaks with another state legislator at the California Capitol in S

California state Sen. Jerry Hill speaks with another state legislator at the California Capitol in Sacramento May 9, 2019. Hill had introduced legislation that would require priests in California to report to authorities information related to child sexual abuse learned in a confession. Hill withdrew the bill after strong opposition from the state's Catholics and religious liberty advocates. (CNS/Chaz Muth)

Questions about clergy-penitent privilege have vexed the American legal system at least since the early 19th century. The subject fascinated Alfred Hitchcock, too, with

his 1953 movie, "I Confess." In a landmark religious freedom case, a New York court ruled in 1813 that Jesuit Fr. Anthony Kohlmann, later the president of what would become Georgetown University, was legally exempt from revealing the identity of a thief he learned through confession.

Several states — including New Hampshire, North Carolina and West Virginia — do not provide religious exemptions from mandatory reporting laws, and many other jurisdictions have introduced laws to compel testimony from clergy. When California moved to order clergy to report child abuse revealed through "penitential communications," the Archdiocese of Los Angeles launched an opposition campaign. The contested bill was ultimately withdrawn by its sponsor in 2019.