

**Testimony submitted by Wendy Volz Daniels, MSW, LCSW**  
**on behalf of the**  
**National Association of Social Workers-Wisconsin Chapter (NASW-WI)**  
**to the joint Senate Committee on Judiciary, Corrections and Privacy and**  
**Assembly Committee on Judiciary**

**September 18, 2003**

Thank you for the opportunity to respond to the proposed legislation relating to sexual abuse of children by members of the clergy (SB 207 and AB 428) during the joint hearings of the Senate Committee on Judiciary, Corrections and Privacy and the Assembly Committee on Judiciary.

NASW continues to support the expansion of the statutes of limitation for prosecuting certain crimes against children as well as allowing victims of certain crimes to bring civil action. We would support the expansion to a specific age based on empirical data and research regarding the age of disclosure by adult survivors of clergy sexual abuse.

NASW also supports the civil cause of action against clergy for sexual exploitation of a child as well as the religious organization that employed the member of the clergy if, at the time that the sexual contact occurred, an employee of the religious organization whose duties included supervising the clergy member knew or should have known that the clergy member previously had sexual contact with a person under the age of 18 and failed to report that sexual contact as sexual abuse and failed to exercise ordinary care to prevent similar incidents from occurring.

NASW welcomes the inclusion of clergy as mandated reporters if they have reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties has been sexually abused, or threatened with sexual abuse and sexual abuse of the child will likely occur. We also support the additional language requiring clergy to report if he or she has reasonable cause, based on observations made or information that he or she receives, to suspect that another member of the clergy has sexually abused a child or has threatened a child with sexual abuse and the sexual abuse will likely occur. We support the above clause for clergy without impacting the current threshold of reporting abuse and neglect for current mandated reporters.

NASW continues to have grave concerns regarding the clause not requiring clergy to report information regarding suspected sexual abuse that is “obtained solely through confidential communications made to the clergy member privately” or in a confessional setting if he or she is authorized to hear or accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or “is expected to keep those communications secret”. Further, the disciplines, tenets, or traditions relating to confidential communications need not be in writing. It appears that this language will allow any request for confidentiality in a private communication with clergy to be kept confidential. Therefore it is possible that this bill would continue to allow the disclosure of clergy sexual abuse to be kept confidential.

In addition to the requirements of mandated reporting in Chapter 48.981(2) of the Wisconsin State Statutes, other mandated reporters in Wisconsin such as social workers, are bound by a professional code of ethics and state administrative rules regarding privacy and confidentiality. The National Association of Social Workers (NASW) Code of Ethics and the State of Wisconsin’s administrative rules ensure that unethical conduct by social workers is not tolerated. The State of Wisconsin, Department of Regulation and Licensing, Social

Workers, Marriage and Family Therapists and Professional Counselors Examining Board enacted administrative rules relating to the unprofessional conduct of social workers. (MPS 20) If unethical behavior occurs, a formal process has been established both by the professional association as well as the state of Wisconsin to sanction the professional which may include the surrendering of the professional's license to practice.

Section 107(c) of the NASW Code of Ethics indicates that "Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person. In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed." Further, Section 107(d) mandates that "Social workers should inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible before the disclosure is made. This applies whether social workers disclose confidential information on the basis of a legal requirement or client consent." Section 107(e) of the NASW Code of Ethics indicates that "Social workers should discuss with clients and other interested parties the nature of confidentiality and limitations of clients' right to confidentiality. Social workers should review with clients circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the social worker-client relationship and as needed throughout the course of the relationship."

Section 1.09 of the NASW Code of Ethics explicitly bars social workers from engaging in sexual relationships with current clients, clients' relatives or former clients. In addition, social workers are also prohibited to provide clinical services to individuals with whom they have had a prior sexual relationship.

The NASW Code of Ethics further requires action when a social worker becomes aware of unethical conduct of colleagues. "When necessary, social workers who believe that a colleague has acted unethically should take action through appropriate formal channels (such as contacting a state licensing board or regulators body, a NASW committee on inquiry, or other professional ethics committees)" (2.11 NASW Code of Ethics)

Given that clergy are not licensed or regulated by the state of Wisconsin nor are all clergy bound by a professional code of conduct, it is clear that the section regarding "confidential communication made to the clergy member in private" of SB 207 and AB 428 requires further discussion. As currently written "confidential communication made to the clergy member in private" is vague and undefined. Unless this section is more clearly defined, clergy sexual abuse, or the knowledge of sexual abuse by a clergy will continue to occur unreported.