

From:
To: [Legislation Committee](#)
Cc:
Subject: Submissions re Obligation of Priests to do b in child sexual offenders
Date: Friday, 24 July 2020 4:51:48 PM
Attachments: [image004.png](#)

Dear Sir/Madam

With regard to the Children and Community Services Amendment Bill 2019, I wish to object to the passing of this legislation in so far as it relates to Priests and Ministers for the following reasons:-

A Placing a Priest/Minister in a Catch 22 position

1. Chapter II of the Code of Canon Law which binds Priests empowers a Priest to hear confessions of parishioners. Can 983§1 provides:-

Can. 983 §1. The sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason.

If a Priest breaks this Canon he is liable to excommunication: Can [1388 §1](#) provides: -

Can. 1388 §1 A confessor who directly violates the seal of confession incurs an automatic excommunication reserved to the Apostolic See.

2. Under the proposed provisions of the Children and Community Services Amendment Bill 2019 a Priest who refuses to report child abuse brought to his attention in Confession is liable to a fine of up to \$6,000. Failure to pay the fine may lead to imprisonment.

If the Amendment is passed it would place a priest in the invidious no win position of either

- Breaking Can 983 § 1 – with the result that he ceases to be a Priest; or
- Breaking the Children and Community Services Act and, should he fail to pay the fine (which he probably does not have the money to pay) going to jail with the result that he can no long carry out his duties as a Priest

The law of the land should not place any person in such a position as to do so brings the law into disrepute.

B Priest/Minister may not know who the culprit is

3. Confessions are made in a confessional in which the Priest does not see the person confessing. It is quite possible, if not likely, that the Priest does not know the identity of the person making the confession. This means that the Priest may be in possession of information that someone has abused or is abusing a child without knowing the identity of the culprit. . There can be

no obligation on the priest to carry out the duties of the police and make enquiries to identify the culprit.

In these circumstances what there is nothing to be gained in reporting the information and the proposed law is not applicable.

If the law is not applicable it should not be passed as it brings the law into disrepute.

Regards

David Fleming
Lawyer



****SECURITY ANNOUNCEMENT****

CYBER CRIME: Due to a dramatic increase in cybercrime, this office will not advise you of our bank account details, or accept your bank account details, in the body of an email. If you receive any emails or messages from our office which may look suspicious, please contact our office by phone immediately.

DISCLAIMER: This email and all attachments (if any) are intended for the use of the addressee only and may contain information which is confidential or privileged. If you are not the intended recipient please disregard the contents and advise the sender immediately either by email (hfm@hfmlegal.com.au) or by telephoning +61 8 9493 1399. Be aware that any copying, disclosure or use of this email and any attachment by anyone other than the intended recipient is prohibited.