

Logistics and Legalities

Understanding the Law

In ministry, we are going to encounter a lot of potential situations where it is important that we understand the laws and they pertain to churches, and their representatives.

Particularly, as our communities shift toward acceptance of alternative lifestyles, we may find ourselves in unique situations.

In this section of the course, we are going to take a look at some of these potential scenarios. It is important to recognize that individual laws will vary from state to state. As well, some laws have changed or are in the process of changing. What was acceptable last year, may not be this year, or next.

I am not a lawyer, and I am to going to be interpreting law in this course. You should be speaking with your Pastor about these concerns, and in some cases you may be able to look up the laws for your state on the issue for yourself. There is a great website, that can help you access some of the answers you may be looking for, Church Law & Tax. I have included it in the bonus section of the Logistics and Legalities section of this course. Another good resource, is the book "Management Essentials for Christian Ministries" (edited by Anthony & Estep). This book has a chapter entitled "Legal and Ethical Considerations in Ministry" that might be beneficial, as well.

In the previous segment, we focused on women who are in crisis. These women may come to us for counseling and as they reveal the details of their situation, they may share some startling information. In some cases, it is personal information that may make us uncomfortable. In other cases, it may be information that is against the law, yet we are not required to report the incident. We also need to be prepared for those instances where the women share information, that we are required by law to report. When you are in ministry leadership, you may be considered a mandatory reporter. There are some things that even clergy confidentiality will not cover. These rules vary state to state.

In most states child abuse or neglect is a circumstance that requires mandatory reporting, and it won't matter if it is the woman confessing to doing it herself... or if she sharing that her spouse, boyfriend, or family member is responsible. There are some states that define mandatory reporting to abuse, but neglect is subjective enough that they consider that discretionary. Since these laws differ, from state to state, you will need to verify the policy in your state. If you are in one of the few states that do not consider clergy as a mandatory reporter, you still have the option to report it and would be protected under the law for breaking that confidentiality.

In all but 3 states, there are mandatory reporting laws in regards to domestic violence, for healthcare providers. However, the details of those laws can vary drastically from state to state, including who is considered a mandatory reporter, and who isn't. Many states have laws for reporting abuse of the elderly too. There are also mandatory reporting laws if someone confesses to their intent to commit certain crimes.

In addition, the definition of clergy confidentiality privilege can vary from state to state. Known primarily as clergy-penitent privilege, the purpose is to protect the contents of communications between a member of the clergy of any religious faith (a "clergy" is a minister, priest, rabbi, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him) and a penitent, who shares information in confidence. It stems from the principle of confessional privilege. In some states you must be an ordained clergy member for this

confidentiality privilege to apply, in others those who are not ordained but officially represent the church are covered (like a mentor, counselor, ministry leader, elder, deacon, etc).

In the states where this is fully recognized, the clergy members cannot testify against a person they have counseled (similar to the same protections offered to married couples). This protection has led many churches to ordain women in leadership roles so that they are afforded the same protection. Which is something worth considering, when churches have a high percentage of women who are in leadership and teaching roles.

These varying laws, and details, make it extraordinarily important that you are informed of the mandatory reporting laws in your state.

Something else we now need to consider are discrimination laws and how they apply to the church and it's events. Here are some scenarios to consider:

Two lesbians, who are in a relationship together, attend your church. The women's ministry is having a weekend long retreat. The church by-laws recognize homosexuality as a sin. How will you handle it, if the couple wanted to reserve a private room to themselves at the retreat?

The women are attending a weekend long retreat at a camp, where there are communal bathrooms. A person born a man, who has gone through gender reassignment surgery to become a woman, would like to attend the women's retreat. Is this permissible?

Does your answer change, if you are the only one who knows this information? If you deny them the ability to attend, will the church face a discrimination lawsuit?

What if it was a women's bible study, ladies brunch, or mother's day tea?

Many church leaders would like to think that these situations wouldn't happen, that the person wouldn't even attempt to attend the event. They would like to think they can explain it to the couple, or transgender person in the "love the sinner, hate the sin" kind of way... and everything will work out fine. In fact, some may even think that these people will never walk in the doors of their church in the first place.

Yet, we know from the news, that it's quite the opposite. There are *some* people who live alternative lifestyles, alternative from what the scriptures establish, and they do attend church. In some cases, churches which they understand are not supportive of their lifestyle. There are *some* people who are purposely challenging religious business owners, organizations, and churches, in order to break down what they see as discrimination and not religious freedom.

With recent developments in the news, we are watching Christian churches respond to new laws, and entering into a period of uncertainty until we can fully grasp what these new laws mean. For these particular instances we have to be ever vigilant in keeping updated on the details and implementation of these laws in our own cities and states.

We may find ourselves in a very unique situation of having to choose between some of our events, and protecting the church. Is a retreat, or a brunch, worth the potential lawsuit to the church? As society begins to accept alternative lifestyles as part of the status quo, this becomes a real concern. Yes, there will be churches who will follow along with the law, performing same sex marriages and eventually recognizing transgenders based on their new identity. There, will be churches who will try to not make

waves, by only addressing it when the situation arises. Then, we will also see churches that vocally stand against these laws, in very public, open defiance. The decisions that each of these churches make will impact all of the other churches.

We must know the laws pertaining to discrimination.

Understand how they pertain to us as ministries.

Be aware of the consequences of the decisions we make.

It is an uncertain time, as new laws are put on the books and we struggle to define them in terms of the here and now. It is also an uncertain time because the laws of today are still being shaped, and redefined. Just as we get to a point where we think we understand the law, and how to work within it... it could change.

New questions are going to arise, as unique circumstances present themselves to the church. We should be every mindful, ever watchful, and ever faithful.

Other legal considerations for ministry, that date back a bit further, include:

Ordination of Women – *when does this become more than a denominational issue?*

- Is it discrimination not to hire a female pastor?
- Is it protected by religious freedom?

Sexual Assault & Harassment Claims – *when with a member of the opposite sex, discussed this earlier in the course, a recap:*

- Keep your office door open
- Have someone else sit in on the meeting with you
- Take separate cars
- Not a hint or even implication of impropriety

Background Checks for Childcare Workers – *the people who are watching children during bible studies, women's events, etc.*

- Hired, background checked workers vs. rotating volunteers
- Policies for 2 workers present at all times
- Policies in place for restroom trips, if not in the classrooms

Liability Laws – *what happens if someone gets hurt at a women's ministry event?*

- Are sub-ministries protected under the umbrella of the church?
- Do we need to have a liability clause when we register women for retreats, carpooling, etc?

These are all important areas to consider, to speak with your Pastor about, understand how they impact the women's ministry, and a great motivator to have your Women's Ministry prayer team praying over the protection of the ministry and the church.