

**PROPOSED AMENDMENTS TO THE CONSTITUTION OF
THE PRESBYTERIAN CHURCH (U.S.A.)**

**APPROVED BY THE 216TH GENERAL ASSEMBLY (2004) AND
RECOMMENDED TO THE PRESBYTERIES FOR THEIR
AFFIRMATIVE OR NEGATIVE VOTES**



PRESBYTERIAN CHURCH (U.S.A.)

OFFICE OF THE STATED CLERK

LOUISVILLE, KY

NOTE

The 216th General Assembly (2004) of the Presbyterian Church (U.S.A.) approved and recommended to the presbyteries for their affirmative or negative votes proposed changes in the language of the *Book of Order* that, if approved, will amend the *Constitution*. Please be sure that a separate vote is taken on each PROPOSED AMENDMENT. A presbytery may vote on the amendments, upon the recommendation of a presbytery committee, by putting some, or even all, in a consent agenda or omnibus motion, that identifies each amendment separately. Proposed Amendments 04-B.1. and 04-B.2, and Proposed Amendments 04-E-1.a. through 04-E.9. are grouped together for clarity and convenience of the presbyteries. They may surely be voted upon as proposed amendment “B.” or “E.” but each subsection also stands as a separate proposed amendment. When a subsection format is used, the stated clerk is required to report the results of each subsection, even though the presbytery may have voted upon them as an omnibus motion. If a presbytery utilizes some form of consent agenda, the moderator must be sure to ask if anyone wishes to remove an item from the consent agenda for further discussion. It is advisable for the presbytery committee and the stated clerk to agree on organizing the report and recommendations so that the presbytery is able to vote “yes” in favor of the amendment or “no” in opposition.

You will note reference numbers to assembly committee reports that relate to the page numbers of the reports as they were distributed to the commissioners. You will also note references to the “Reports to the General Assembly.” These indicate where to find background information from various entities that was sent out to the assembly commissioners prior to the assembly. The “*Item Number*” references are the same as will be found in the *Minutes of the 216th General Assembly (2004)*, Part I [*Minutes*], which may well be available to the presbyteries by the time they consider the amendments. The advice of the Advisory Committee on the Constitution (ACC) can be found immediately following the item in the *Minutes* for which the advice is given. Proposed Amendments 04-A, 04-B, and 04-E also contain materials from other General Assembly entities. The commissioners to the General Assembly received all of the above materials, so presbyteries may wish to ask their individual commissioners to provide copies of such reports. If your commissioners did not retain them, the Office of the General Assembly can provide copies.

Unless otherwise indicated, new language to be added to the *Book of Order* is in italics and any language to be stricken will have a line through it. In providing background material, we have attempted wherever possible to use quotations from the various groups that presented or commented on these materials as they went to the General Assembly. Within those quotations, bracketed material [] has been inserted editorially. If there are no numbers recorded for votes made by the General Assembly, those motions were approved either by voice or show of hands, which would not have been counted.

Thank you for your time and careful attention as you prepare to vote on these proposed amendments.

Clifton Kirkpatrick
Stated Clerk of the General Assembly

Copyright © 2004
Cover design Copyright © 2004
by
Office of the General Assembly
Presbyterian Church (U.S.A.)

Presbyteries may copy this publication without prior permission from the publisher.

TABLE OF CONTENTS

I. BOOK OF ORDER SECTIONS AFFECTED

Form of Government	Page
G-6.0204	15
G-6.0304	16
G-6.0402	16
G-7.0306	1
G-9.0503a	17
G-9.0503a(2)(a)	5
G-9.0503a(2)(b)	7
G-14.0515d	10
 Rules of Discipline	
D-1.0101	19
D-6.0306a	11
D-8.0302a	11
D-10.0106	21
D-10.0202	23
D-10.0202g	25
D-10.0203	23
D-11.0403e	26
D-12.0103	27
D-12.0104	27
D-13.0102	29
D-13.0106	29
D-13.0302a	11

04-A. Former COM Elder Moderating Meetings of Congregations— On Amending G-7.0306 (Item 04-13)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-7.0306 be amended as follows: [Text to be deleted in shown with a strike-through; text to be added or inserted is shown in *italic*.]

“The pastor shall be the moderator of all meetings of the congregation. In congregations where there are co-pastors, they shall, when present, alternately preside at meetings. When the church is without a pastor, the moderator of the session appointed by the presbytery shall preside at all congregational meetings. If it is impractical for the pastor or the moderator of session appointed by presbytery to preside, he or she shall invite, with the concurrence of the session, another minister of the presbytery to preside. A presbytery may appoint a lay pastor as moderator of session to the church to which she or he is commissioned. The person assigned to the commissioned lay pastor as mentor and supervisor shall also supervise his or her work as moderator. In addition, the moderator of the session of a church with a vacant pulpit may request an elder who is, *or has been*, a member of ~~the~~ *that* presbytery’s committee on ministry, the stated clerk, executive presbyter, or associate executive presbyter, to preside; such elder may not moderate the meeting of a congregation of which that elder is a member. When this is not expedient, and when both the pastor or the moderator of the session and the session concur, a member of the session may be invited to preside.”

Rationale

This amendment was proposed by Heartland Presbytery. The Presbytery noted:

“The experience of elders and ministers who have served on the committee on ministry is a valuable asset to presbyteries. With the limitations on length of service imposed by the *Book of Order*, this asset can be lost once an elder or minister completes his or her term of service.... The proposed amendment to G-7.0306 (above) would allow presbyteries and sessions to draw on the experience of elders who have served on the committee on ministry in the particular case of moderating congregational meetings.

“It is sometimes the case, because of geography, past experience with a congregation while serving on the committee on ministry, or special skills suited to a particular situation, that it would be advantageous to call upon an elder who has served but is not currently serving on COM to

moderate a congregational meeting. This amendment would allow for that and thereby widen the pool of persons available to moderate in unusual situations and allow presbytery to take advantage of their skills and experience.”

The Advisory Committee on the Constitution commented:

“The Presbytery of Heartland identifies a potential shortcoming and a reasonable response in its proposed amendment to G-7.0306. It is obvious that recent alterations to this paragraph (at the time of reunion only minister members of the presbytery were eligible to be considered for the function of moderating a congregational meeting) make it possible for a great number of persons to be invited to serve this function. The proposed amendment adequately includes another category of person to the list.”

The Advocacy Committee for Racial Ethnic Concerns stated:

“...[In] a number of racial ethnic and new immigrant churches, the lack of persons who may moderate a congregational meeting prevents these churches from conducting their business in a timely manner. By increasing the pool of persons available to preside at the meeting of a congregation, these churches will be allowed to call on experienced elders who have previously served on the committee on ministry.”

The proposed amendment to G-7.0306 was referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 87, 327–28, Item 04-13, assembly committee report: p. 10) which recommended approval by a vote of 57/3/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-B. Proposed Amendments Concerning Immigrant Fellowships

GENERAL BACKGROUND

Proposed amendments 04-B.1. and 04-B.2. came to the 216th General Assembly (2004) by way of two overtures from the Presbytery of Des Moines. There were other governing bodies that concurred with each of the overtures. The rationale accompanying both overtures stated:

“The Presbytery of Des Moines and the Presbytery of Missouri River Valley, in partnership with the Synod of Lakes and Prairies and the General Assembly, have jointly shared in a ministry to Sudanese immigrants for five years.

“The Presbytery of Des Moines and the Presbytery of Missouri River Valley both support the General Assembly’s strategy for racial ethnic evangelism.

“The Sudanese members of the new immigrant fellowships that have been formed have a long history of being Presbyterian.

“The Sudanese fellowships and the presbyteries both desire fuller inclusion of the fellowships in the life of their respective presbyteries, but have been impeded by the current requirement for forming congregations and ordaining elders.

“Section G-11.0404f grants special circumstances for recognizing the ordination of and enrolling new immigrant ministers.

“The 170th General Assembly of the United Presbyterian Church in the United States of America (*Minutes*, 1958, Part I, p. 445) declared that ruling elders from Reformed churches, received as members of Presbyterian congregations, did not need to be re-ordained.”

04-B.1. Recognizing Immigrant Leaders as Elders— On Amending G-9.0503a(2) (Item 09-02)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-9.0503a(2) be amended by adding a new paragraph “(a)” to read as follows:
[Text to be added or inserted is shown in italic.]

“(a) For immigrant fellowships with roots in the Reformed tradition, if the presbytery determines (1) that its strategy for mission with that constituency requires it and (2) that the chosen lay leadership of the immigrant fellowship is equivalent to elders and session, then the presbytery or its administrative commission may recognize that status as equivalent and proceed to recognize those leaders as elders. In making this determination the presbytery shall be guided by written criteria developed by the presbytery. These criteria shall be based upon the description of the nature of ordained office found in G-6.0100 and G-6.0300.”

[Editor’s Notes: The amendments proposed to G-9.0503a(2)(a) and G-9.0503a(2)(b) and approved by the 216th General Assembly (2004) have been editorially reversed to provide continuity.
The lettering of this proposed amendment is based on the assumption that both 04-B.1. and 04-B.2. are approved by the presbyteries. If one is defeated, the lettering will be adjusted appropriately.]

Rationale

The Presbytery of Des Moines and the Presbytery of Missouri River Valley, in partnership with the Synod of Lakes and Prairies and the General Assembly, have jointly shared in a ministry to Sudanese immigrants for five years.* Please refer to the Presbytery of Des Moines’s rationale for this amendment, as found in the General Background on page 4 of this document.

The Office of the General Assembly commented:

“This [amendment] seeks to permit presbyteries to recognize and empower natural and traditional lay leaders in new immigrant fellowships. Many immigrants come to the United States carrying reformed traditions. They have experience with ‘governing bodies’ and are accustomed to being led by persons who carry out many of the functions that PC(USA) elders do in the United States. Yet they often come from traditions that do not have

sessions. This [amendment] seeks to give presbyteries the flexibility to utilize these natural gifts and talents by recognizing these experiences.

“This is not a new idea to our polity. As the overture [04-B.1.] notes, since at least the 1950’s, the *Constitution* has allowed elders from other Reformed churches to serve as elders in the Presbyterian church without being re-ordained. Several times in this denomination’s life, proposals have been made to permit presbyteries to ordain elders in limited circumstances:

“The seminal discussion of this idea came to the 204th General Assembly (1992) in the report of the Task Force on Theology and Practice of Ordination to Office (*Minutes*, 1992, Part I, pp. 1021, 1065) where the task force recommended that the church explore the ‘formation of covenantal partnerships between sessions and presbyteries’ in the preparation and ordination of elders.

“The 212th General Assembly (2000) was presented with an overture (*Overture 00-36*) to permit ‘exceptional ordinations’ by presbyteries when

‘service to the church would be enhanced by such ordination.’ That overture was aimed at commissioned lay pastors. This [proposed amendment] seeks a similar flexibility in favor of presbyteries.

“Surely the context has changed since the 170th General Assembly [permitted the recognition of elders of other Reformed churches] in 1958. Three of the last four General Assemblies have encouraged presbyteries to reach out to new immigrant populations (*Minutes*, 2000, Part I, p. 543; *Minutes*, 2001, Part I, p. 62; *Minutes*, 2003, Part I, p. 536) and the 216th General Assembly (2004) [had] four other such items before it. This [proposed amendment] seeks to provide indigenous leadership for those new fellowships. Currently there is no provision for the election of elders until the presbytery is ready to permit the election of a fellowship’s first session. The current text does not explicitly permit such an immigrant to be elected to the administrative commission. The [proposed amendment] seeks to permit presbyteries to train up these new immigrant leaders in the ‘ways of a PC(USA) session’ before actually chartering the fellowship as a PC(USA) church. This is a transitory time, but often a critical one in a fellowship’s development.”

The Advisory Committee on the Constitution advised the General Assembly to disapprove Item 09-02. It noted:

“ Elders are chosen through the voice of the congregation and ordained by an act of a session. The foundational bases of this *Constitution* do not provide for the election and ordination of elders apart from the work and witness of a particular congregation.... It is not a function of the presbytery apart from [organizing a new congregation] ... to elect or ordain elders. As the *Constitution* provides specific provisions for the training and approval of those who are to serve as elders (G-14.0205), those provisions would govern any persons chosen and ordained in immi-

grant fellowships. It is the opinion of the Advisory Committee on the Constitution that existing provisions guiding a presbytery to oversee the development of a new congregation of any kind are sufficient to achieve the intent of this [proposed amendment].

“The [proposed amendment] ...proposes a significant departure from historic understandings of office in the church....”

The Advocacy Committee for Racial Ethnic Concerns advised:

“...Presently, the *Book of Order* addresses immigrant pastors only and not responsibilities of [immigrant] elders and deacons.

“Approval of this item will recognize and enable leaders of immigrant fellowships to share their skills and talents in governing, in ministry, in program(s), and in service to the PC(USA), and in their local congregations.

“By recognizing members of immigrant fellowships as elders, they will have the needed opportunity to enhance their congregations by their witness to the uniqueness of the PC(USA) efforts for full participation of its members by diversity and inclusiveness throughout all areas of the church.”

*** Concurrences to Item 09-02 came from the Presbyteries of Missouri River Valley and Santa Fe.**

The proposed amendment to G-9.0503a(2) was referred to the Assembly Committee on Evangelism and Higher Education (*Minutes*, 2004, Part I, pp. 40, 646–47, Item 09-02, assembly committee report: p. 2) which added an amendment and then recommended approval by a vote of 41/4/1. The 216th General Assembly (2004) approved the committee’s recommendation by a vote of 385/101/4.

04-B.2. Granting a Fellowship Voice and Vote— On Amending G-9.0503a(2) (Item 09-01)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-9.0503a(2) be amended by adding a new paragraph “(b)” to read as follows:
[Text to be added or inserted is shown in italic.]

“(b) For immigrant fellowships the presbytery may, if it determines that its strategy for mission with that constituency requires it, grant designated leader(s) of a fellowship voice and vote in the meetings of presbytery on an annual basis.”

[Editor’s Notes: The amendments proposed to G-9.0503a(2)(a) and G-9.0503a(2)(b) and approved by the 216th General Assembly (2004) have been editorially reversed to provide continuity.
The lettering of this proposed amendment is based on the assumption that both 04-B.1. and 04-B.2. are approved by the presbyteries. If one is defeated, the lettering will be adjusted appropriately.]

Rationale

The Presbytery of Des Moines and the Presbytery of Missouri River Valley, in partnership with the Synod of Lakes and Prairies and the General Assembly, have jointly shared in a ministry to Sudanese immigrants for five years.* Please refer to the Presbytery of Des Moines’s rationale for this amendment, as found in the General Background on page 4 of this document.

The Office of the General Assembly noted:

“This [proposed amendment] seeks to permit presbyteries to adopt standing rules or bylaws that permit the presbytery to grant a new immigrant fellowship representation (voice and vote) prior to being chartered as a PC(USA) church. The overture[’s rationale] notes that a presbytery may already grant such privileges to the minister leading such fellowships (*Book of Order*, G-11.0404f). The [proposed amendment] seeks to mirror the parity between elders and ministers required by the *Book of Order* for chartered congregations (*Book of Order*, G-11.0101).

“If the goal is to train new immigrant elders in how to be faithful presbyters in PC(USA) presbyteries, the [amendment] would give presbyteries the option of granting such fellowships the ‘hands-on training’ the overture suggests is necessary.”

The Advisory Committee on the Constitution advised the 216th General Assembly (2004) to disapprove Item 09-01 and commented:

“...Individuals have voice and vote in governance, not organizations. Those individuals must be ordained either as ministers of the Word and Sacrament or as elders. There currently exists a means by which a presbytery may receive into membership a minister serving an immigrant fellowship. As a member of the presbytery, that person would have both voice and vote. Gifted members may be prepared for leadership in a developing congregation and as such the presbytery may grant voice to them by its own action.”

The Advocacy Committee for Racial Ethnic Concerns advised that this proposed amendment be approved and commented:

“Immigrant fellowships do not attain the *Book of Order* status that permits them to elect elders and to have voice at presbytery. This results in many new members being denied entrance into the ‘Leadership Channels’ of the PC(USA). The *Book of Order* only addresses immigrant ministers.

“Approval of Item 09-01 will help prepare the PC(USA) as it enters the 21st century with the demographic changes that are occurring in the United States.”

***Concurrences to Item 09-01 came from the Presbyteries of Missouri River Valley, National Capital, and Santa Fe.**

The proposed amendment to G-9.0503a(2) was referred to the Assembly Committee on Evangelism and Higher Education (*Minutes*, 2004, Part I, pp. 40, 645, Item 09-01, assembly committee report: p. 1) which added an amendment and then recommended approval by a vote of 42/3/1. The 216th General Assembly (2004) approved the committee’s recommendation by a vote of 314/176/3.

04-C. Ending Parish Associate Relationships— On Amending G-14.0515d (Item 05-12)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-14.0515d be amended to read as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

~~“d. The agreement between the session, and the parish associate, and the presbytery shall, whenever a pulpit becomes vacant, be terminated upon due notice by the session or the parish associate with the approval of the presbytery terminate when the call to the installed pastor is dissolved. The presbytery may dissolve the relationship with the parish associate upon the recommendation of the committee on ministry.”~~

Rationale

This proposed amendment came to the 216th General Assembly (2004) by way of a request to the Advisory Committee on the Constitution (ACC) from the stated clerk of the Presbytery of Whitewater Valley. The requester described “... an experience with a church that did not wish to terminate a relationship with a parish associate when the installed pastor’s call was dissolved and the pulpit became vacant.

“The relationship of a parish associate with a church is initiated by the installed pastor. The pastor nominates the parish associate to the session. The session in turn requests to presbytery’s COM [Committee on Ministry] that the relationship be established. The COM [then] recommends approval to presbytery. The relationship is to be reviewed annually by COM.

“One reason noted by the *Constitution* for the annual review is ‘to insure ... that installed leadership of the particular church be protected in its effective functioning.’ (G-14.0515c(2))

“The *Constitution* further specifies, ‘The parish associate shall be responsible to the pastor...’ (G-14.0515a). When the pastor who initiated the

relationship in the first place is no longer on the staff of the particular church in which the parish associate serves, the structure of accountability is removed. Subsequent pastor(s) may or may not wish to continue the relationship, its accompanying supervisory responsibilities, and the specific activities or duties carried out by the parish associate during the leadership of the previous pastor.”

The Advisory Committee on the Constitution commented:

“The language of the *Constitution* could be clearer concerning the fate of parish associates when pastors retire or move. The alternate language proposed would accomplish that purpose.”

The proposed amendment to G-14.0515d was referred to the Assembly Committee on Church Orders and Ministry (*Minutes*, 2004, Part I, pp. 78, 402–3, Item 05-12, assembly committee report: p. 3) which recommended approval by a vote of 60/3/1. The 216th General Assembly (2004) approved the committee’s recommendation.

04-D. Clarifying Time Limits—On Amending D-6.0306a, D-8.0302a and D-13.0302a (Item 04-03)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

1. Shall D-6.0306a be amended as follows: [Text to be added or inserted is shown as italic.]

“a. If a challenge is made to the findings of the moderator and clerk *within thirty days after receipt of those findings*, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question. Parties shall be invited to submit briefs prior to the hearing on the jurisdictional questions.”

2. Shall D-8.0302a be amended as follows: [Text to be added or inserted is shown as italic.]

“a. If a challenge is made to the findings of the moderator and clerk *within thirty days after receipt of those findings*, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question.”

3. Shall D-13.0302a be amended as follows: [Text to be added or inserted is shown as italic.]

“a. If a challenge is made to the findings of the moderator and clerk *within thirty days after receipt of those findings*, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question.”

Rationale

This proposed amendment came to the 216th General Assembly by way of an overture from the Presbytery of San Francisco. The Presbytery noted:

“In the context of either a remedial complaint ... or the appeal of a remedial case, ... [both D-6.0306a and D-8.0302a in the] *Book of Order* provide a right for a party to the case or a member of the permanent judicial commission to make a challenge to the jurisdictional and related findings of the moderator and clerk. The *Book of Order* also requires the permanent judicial commission to dismiss the case if it determines that any point listed in D-6.0305 or D-8.0301 is answered in the negative (D-6.0306a, D-8.0302c). However, unlike

most of the steps in the judicial process, the *Book of Order* does not specify a time limit for exercising the right to challenge the jurisdictional findings of the moderator and clerk.”

The Advisory Committee on the Constitution recommended the time limit be added to D-13.0302a as well, advised approval, and noted:

“This overture seeks to limit the time allowed for filing a challenge to the findings of the moderator and clerk of a permanent judicial commission on the jurisdictional questions relating to the filing of a complaint or appeal in a remedial case.

“The possibility of a challenge to these findings is an example of the importance of fairness and due process in the Rules of Discipline. Currently, because no time limit exists for parties to the case or members of the permanent judicial commission to challenge the correctness of the findings, there is uncertainty as to when this opportunity ceases. This unnecessarily increases the possibility for confusion, error, and irregularity. The proposed amendments address this ambiguity and

would result in greater clarity in the church’s judicial process.”

The proposed amendments to D-6.0306a, D-8.0302a and D-13.0302a were referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 81, 295, Item 04-03, assembly committee report: p. 2), which approved an alternate resolution by a vote of 58/0/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-E. Proposed Amendments Resulting from Concern with Abuse

GENERAL BACKGROUND

The following background information was submitted with the proposed amendments by the General Assembly Council (Independent Committee of Inquiry):

“In October 2000, the General Assembly Council of the Presbyterian Church (U.S.A.) appointed an Independent Committee of Inquiry to explore allegations of sexual abuse of minor children at a missionary boarding school in the Congo. Among its findings, the Independent Committee of Inquiry found that fifty-one incidents of sexual abuse had been committed in the period of 1945–1985 by mission personnel against twenty-two children and adolescents, and three adults, most of whom were under the aegis of the American Presbyterian Congo Mission of the former Presbyterian Church in the United States (PCUS).

“[A detailed] background to these amendments is the Final Report of the Independent Committee of Inquiry—Presbyterian Church (U.S.A.) (September 2002), Presbyterian Distribution Service, #517002001. [This information is also available on the Presbyterian Church website at <http://www.pcusa.org/ici/gacresponse.htm>.] Inquiry participants (most notably the victims) were invited to propose recommendations to the Presbyterian Church (U.S.A.) regarding (1) prevention of such acts in the future, (2) accountability within the Rules of Discipline, and (3) changes and provisions that would provide for healing for the victims.”

**04-E.1.a. Minister Reporting Child Abuse—On Amending G-6.0204
(Item 04-08 – Recommendation 11.a.)**

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-6.0204 be amended by adding an “a.” to the existing text and adding a new section “b.” to read as follows: [Text to be added is shown as italic]

“b. A minister of the Word and Sacrament shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-6.0204a; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“It is a long-standing principle of confidentiality that confidentiality is automatically waived when a person is in danger of doing harm to oneself, or of doing harm to another person. Laws regarding mandated reporting of physical abuse or sexual harm against minors and adults without capacity vary from state to state. Clergy, for example, are not consistently included in state lists of mandated reporters. Enactment of this amendment would have both symbolic and practical value by demonstrating a commitment to the well-being of those who are vulnerable and those who trust the people of Jesus Christ to care with their actions as well as their words (Jas. 1:22, 2:18). For the church to establish a standard of practice on this matter for its ministers of the Word and Sacrament, elders, and deacons is an affirmative and constructive act....

“The church depends on congregations in which an atmosphere of trust and interdependence serves the commitment to mission and ministry in the name of Jesus Christ. When leaders of congregations exercise responsible confidentiality regarding sensitive personal information, trust is rein-

forced and interdependence nurtured. However, withholding knowledge that may result in the perpetuation of conditions of abuse or the infliction of harm on vulnerable people will eventually destroy the bonds that form the foundation for healthy congregations. There have been several recent instances in our denomination in which failure to report to civil authorities, or procrastination in doing so, has led to great conflict and difficulty in congregations....”

The Advisory Committee on the Constitution advised approval and noted:

“...[T]he concerns underlying the proposed amendment are addressed without compromising the separation of church and state or the confessional privilege.”

The proposed amendments to G-6.0204, G-6.0304, and G-6.0402 were referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 85, 316, Item 04-08, Recommendation 11, assembly committee report: pp.7-8), which recommended approval by a vote of 57/0/1. The 216th General Assembly (2004) changed “child” to “minor” and then approved the committee’s recommendation by a vote of 468/5/3.

[Editor’s Note: While the proposed amendments numbered 04-E.1.a., b., and c. were voted upon by the 216th General Assembly (2004) as a group, they have been separated for consideration by presbyteries because they are not interdependent.

**04-E.1.b. Elder Reporting Child Abuse—On Amending G-6.0304
(Item 04-08 – Recommendation 11.b.)**

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-6.0304 be amended by adding an “a.” to the existing text and adding a new section “b.” to read as follows: [Text to be added is shown as italic]

“b. An elder shall report to ecclesiastical and civil legal authorities knowledge, gained in the course of service to the church, of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of privileged communication; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.”

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“Elders and deacons are included in [these amendments] because it is not sufficient that a standard of practice that protects children and vulnerable adults be applied only to ministers of the Word and Sacrament. Our Reformed tradition emphasizes the ministry of all believers, and our Presbyterian polity assigns significant responsibili-

ties among the people of God to the offices of elders and deacons. Because of shared governance among ministers, elders, and deacons, it is crucial that this standard apply to all ordained officers.

“[These amendments recognize] that some elders and deacons may receive information in the performance of their professional role and that would not be abrogated by these standards, for example, physician/patient privilege and attorney/client privilege.”

**04-E.1.c. Deacon Reporting Child Abuse—On Amending G-6.0402
(Item 04-08 – Recommendation 11.c.)**

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-6.0402 be amended by adding an “a.” to the existing text and adding a new section “b.” to read as follows: [Text to be added is shown as italic]

“b. A deacon shall report to ecclesiastical and civil legal authorities knowledge, gained in the course of service to the church, of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of privileged communication; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.”

See Rationale in 04-E.1.b., above

04-E.2. Pastoral Inquiry—On Amending G-9.0503a (Item 04-08 – Recommendation 6)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-9.0503a be amended by adding a new section to read as follows: [Text to be added is shown as italic.]

“(7) To make pastoral inquiry in the event that jurisdiction in a judicial proceeding is ended as a result of the death of, or renunciation of jurisdiction by, the person accused of the disciplinary offense of ‘sexual abuse of another person.’ (D-10.0401b) The inquiry shall:

“(a) not be a part of the church’s judicial proceedings;

“(b) be empowered to receive witnesses and to consider evidence; and

“(c) reach a determination of truth related to the accusation and make a full report to the governing body who appointed it, including recommendations for appropriate action.”

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“The need for [such] pastoral inquiry by the General Assembly Council was precipitated by the death of a person accused of numerous and serious disciplinary offenses at the time of a presbytery investigating committee’s investigation.

“The *Book of Order* states that ‘jurisdiction in judicial process ends when a church member renounces the jurisdiction of the church’ (D-3.0106). The practical result of this section is that if the accused renounces jurisdiction while a disciplinary proceeding is under way, either as an investigation or during a trial, the proceeding is terminated without either exonerating the individual accused or finding that the individual was guilty of the disciplinary offense. In practice, this provision is invoked when the accused dies, and results in the same practical outcome: judicial proceedings are terminated.

“...Though [these proposals provide] for no *disciplinary* resolution,... [this provision would provide the opportunity for] resolution of the sort that *truth-telling* provides. The purpose of the inquiry was pastoral through-and-through, both for the accusers and other victims, and for the church.

“There have been other cases in our church in which renunciation of jurisdiction by an accused person was exercised deliberately to thwart proceedings in matters of clergy sexual exploitation. There is evidence that renunciation of jurisdiction has been suggested to accused persons as an option of avoiding trial and a finding of guilt.”

The ICI also noted:

“A modern historical model for such action is the Truth and Reconciliation Commission inquiries conducted over a four-year period in South Africa. Avoiding the long-standing model of vengeance and retribution, the leaders of South Africa sought a different way, and turned to the model of truth-telling. Both victims and perpetrators found a sense of closure and redemption in the process. The

church can be proud that Christians took the lead in both developing the Truth and Reconciliation Commission and participating in it.

“The Independent Committee of Inquiry is a living model of how this amendment might be enacted in practice. It was given a specific charter, the components of which included: background, authorizing action, purpose, scope, the nature of the committee’s work, confidentiality, membership and credentials, independence, duration, funding, responsibilities, reporting function, and communication strategy....”

The Advisory Committee on the Constitution noted:

“The proposed amendment is unnecessary because a presbytery already possesses power to conduct the type of inquiry contemplated, either through the creation of an administrative commission exercising the presbytery’s powers under G-11.0103b, G-11.0103g, and G-11.0103k, or by its committee on ministry’s exercise of its responsibilities under G-11.0502i.

“Although the proposed amendment claims that the proposed inquiry will not be part of the

church’s judicial system, the result envisioned is quasi-judicial. A presbytery should make clear that such inquiry is not to be confused with a continuation of the disciplinary process.”

The Advocacy Committee on Woman’s Concerns noted:

“This proposed change is especially important in its ability to bring closure for victims when the renunciation of jurisdiction or the death of the accused person prevents a disciplinary case from coming to resolution.

“Adding this language to the *Book of Order* offers a process for dealing with the needs of the broken community in the case of the renunciation of jurisdiction or the death of an accused person....”

The proposed amendment to G-9.0503a was referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 83, 307, Item 04-08, Recommendation 6, assembly committee report: p. 5), which recommended an alternate resolution by a vote of 53/6/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-E.3. Adding to the Rules of Discipline Preface— On Amending D-1.0101 (Item 04-08 – Recommendation 3)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall D-1.0101 be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italics.]

“Church discipline is the church’s exercise of authority given by Christ, both in the direction of guidance, control, and nurture of its members and in the direction of constructive criticism of offenders. *The church’s disciplinary process exists not as a substitute for the secular judicial system, but to do what the secular judicial system cannot do.* ~~Thus,~~ The purpose of discipline is to honor God by making clear the significance of membership in the body of Christ; to preserve the purity of the church by nourishing the individual within the life of the believing community; *to achieve justice and compassion for all participants involved*; to correct or restrain wrongdoing in order to bring members to repentance and restoration; *to uphold the dignity of those who have been harmed by disciplinary offenses*; to restore the unity of the church by removing the causes of discord and division; and to secure the just, speedy, and economical determination of proceedings. In all respects, ~~members~~ *all participants* are to be accorded procedural safeguards and due process, and it is the intention of these rules so to provide.”

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted that its members came to realize that “the Rules of Discipline, in its current form, is oriented toward the offender.”

The ICI added:

“With the recommended changes, the Preamble would recognize that accusers and victims are participants in the disciplinary process. With the recommended changes, the church would express—in the Preamble to its Rules of Discipline—that justice and restoration apply to all participants in disciplinary cases: the accused, the ones investigating, the accusers, the alleged victims, the victims, and the sessions or permanent judicial commissions which will discern guilt or innocence and censure.”

The Advisory Committee on the Constitution advised the 216th General Assembly (2004) with the following comment:

“...This proposed amendment seeks to include in the Preamble to the Rules of Discipline language recognizing that the purpose of church discipline involves seeking justice and restoration not only for an alleged offender, but also for an alleged victim and accuser. It is clear and concise, and is consistent with other portions of the *Book of Order*.

“However, it remains important to distinguish between the appropriate role of the church’s disciplinary process and the role of secular civil and criminal processes. This distinction is crucial to the effectiveness of the church’s disciplinary process. Confusion of these roles creates risks to the victim as well as to the church. The church’s disciplinary system exists not as a substitute for the secular judicial system, but rather to do what the secular judicial system cannot do—to protect and uphold the peace, purity, and unity of the church...”

The Advocacy Committee for Women's Concerns advised:

“This change recognizes that the judicial process within the PC(USA) is about justice, restoration, and reconciliation for all who participate in it.

“The spirit in which the Rules of Discipline is written seeks wholeness and restoration of communities. Adding this language to the preamble shifts the primary focus from the accused to also

supporting the victim. It thus enhances the restoration of the full community.”

The proposed amendment to D-1.0101 was referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 82, 302, Item 04-08, Recommendation 3, assembly committee report: pp. 3-4), which recommended an alternate resolution by a vote of 55/1/0. The 216th General Assembly (2004) approved the committee's recommendation by a vote of 484/1/6.

04-E.4. Imposing Administrative Leave—On Amending D-10.0106 (Item 04-10)

The 216th General Assembly (2004) directed the Stated Clerk to send the following amendments to the presbyteries for their affirmative or negative votes:

**Shall a new section, *D-10.0106*, be added to the Rules of Discipline to read as follows:
[Text to be added is shown as italic.]**

[Editor’s Note: Although the 216th General Assembly (2004) included a title for this new section for the *Book of Order*, such captions are not constitutional language, and will be added editorially if the proposed amendment is approved.]

“When a written statement of an alleged offense of sexual abuse toward any person under the age of eighteen, or who it is alleged lacked the mental capacity to consent, has been received against a minister of the Word and Sacrament, the stated clerk receiving the allegation shall immediately communicate the allegation to the permanent judicial commission. The moderator of the permanent judicial commission shall within three days designate two members, who may be from the roster of former members of the permanent judicial commission, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such shall be borne by the employing entity whenever possible or be shared by the presbytery as necessary. While administrative leave is in effect, a minister or other employee may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals, or weddings.

“a. The designated members of the permanent judicial commission, after giving the accused the opportunity to be heard, shall determine whether the risk to the congregation and to potential victims of abuse, when considered in light of the nature and probable truth of the allegations, requires administrative leave or other restrictions upon the minister’s service. Such administrative leave or restrictions will continue until resolution of the matter in one of the ways prescribed in the Rules of Discipline or the leave or restrictions are altered or removed by the designated members of the commission.

“b. If the designated members of the commission determine that no administrative leave or restriction is required, the investigating committee appointed to investigate the allegations shall be free at any point in its investigation to present additional evidence to the designated members supporting the imposition of administrative leave or other restrictions.”

Rationale

The Advisory Committee on the Constitution (ACC) noted that the 216th General Assembly was offered four “...different, sometimes overlapping, approaches for addressing the current lack of a constitutional provision for placing a pastor on administrative leave.”

The Assembly Committee on Church Pol-

ity recommended that the 216th General Assembly (2004) adopt the language proposed by the ACC in response to the overture by the Presbytery of Baltimore (Item 04-10).

The ACC noted:

“Issues of sexual misconduct must always be of great concern in our covenant community. Recent allegations of sexual misconduct in other denominations and the work of the ICI, as well as other incidents within our own denomination have focused our denomination on the importance of this issue. On the other hand, our denomination has a long history of affording its officers due process before decisions restricting or removing officers from the exercise of ordained office. False accusations of sexual misconduct, particularly if given the appearance of being validated by a governing body by placement of the accused on a leave of absence, can irreparably damage the reputation of the accused and deprive the church of that person’s gifts for ministry.”

The ACC also advised:

“Underlying all of the proposals for creating a mechanism allowing a pastor to be placed on a leave of absence are a number of common issues...:

“a. What process is due the accused before a leave of absence is imposed?

“b. Who should implement the process?

“c. What other parties, if any, should be involved in the process?

“d. What types of allegations should trigger the process of determining whether to place a pastor on a leave of absence?

“e. What timeline should apply to determining whether to place the pastor on a leave of absence?

“f. Whether a pastor placed on leave should be compensated, and if so, by whom?”

The ACC further noted:

“Item 04-10 creates a clear process for determining whether a minister should be placed on a leave of absence. It assigns this responsibility to two members of the presbytery’s permanent judicial commission. It requires that an accused be heard before the appointees of the permanent judicial commission impose a leave of absence. The proposal establishes a timeline under which the permanent judicial commission must initiate the process of determining whether to place a pastor on a leave of absence. The proposed amendment is limited to situations in which an allegation of sexual abuse involving a minor or person lacking the capacity to consent is made....”

The Advocacy Committee for Women’s Concerns advised:

“The changes proposed by Item 04-10 will give greater protection to victims and provide clearer standards of communication and just discipline for the church. It proposes a process for permanent judicial commissions to use, when appropriate, to place pastors on administrative leave.”

The proposed amendment to D-10.0106 was referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 85–86, 321, Item 04-10, assembly committee report: pp. 8-9), which recommended approval by a vote of 52/2/1. The 216th General Assembly (2004) amended and then approved the committee’s recommendation by a vote of 443/20/6

**04-E.5. Rights of Accuser—On Amending D-10.0202 and D-10.0203
(Item 04-08 – Recommendation 7)**

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall D-10.0200 be amended as follows: [Text to be added or inserted is shown as italic.]

**a. Amend D-10.0202 by adding a new “b.” and re-lettering current “b.-i.” as “c. -j.”
The new section “b.” shall read as follows:**

“b. provide the person making the accusation with a statement of the investigating committee’s procedures;”

b. Amend D-10.0203 by adding new sections “a.” and “b.” and by adding a “c.” to the current text so that it shall read as follows: [Text to be added or inserted is shown as italic.]

“a. The investigating committee shall inform the person making the accusation of the right to be accompanied by an advocate at each and every conference between the person making the accusation and the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and consultation.

“b. If the statement of accusation is submitted on behalf of another person who is alleged to have been harmed by the offense, the investigating committee shall notify that person of the right to be accompanied by an advocate at each and every conference with the investigating committee, the prosecuting committee, and the session or permanent judicial commission.

“c. At the beginning of each and every conference ...”

[Editor’s note: If this proposed amendment is approved, the heading in the Book of Order will be changed appropriately.]

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“The idea for this particular amendment came from a former missionary child who proposed ways to improve the church’s response following

occurrences of abuse, particularly the church’s response to those who were victims.

“Ecclesiastical proceedings that are governed by the Rules of Discipline are typically complex and stressful, involve parties with conflicting points of view and contrasting needs, and utilize portions of the church’s polity that are unfamiliar to most Presbyterians and certainly to non-

Presbyterians. In disciplinary cases involving the offense of ‘sexual abuse of another person’ (D-10.0401b), the complexity and stress of the proceedings are intensified. It would be particularly helpful to people in these cases for the investigating committee to provide a statement of the procedures it will follow. While a stated clerk may provide information regarding the process of disciplinary cases, only a particular investigating committee is in a position to inform an accuser/victim of the process it will follow. The first portion of this amendment will make such information part of the duties of an investigating committee.”

The ICI continued:

“The ...basis [for this amendment] is a matter of fairness and consistency.... Fairness and consistency would extend an advocate to the person who makes the accusation and/or is the person identified as the one alleged to have been harmed by the offense.

“Provision of an advocate to that person from the outset and throughout all proceedings would function to express the commitment of the *Book of Order* to achieve justice and compassion for all primary participants.”

The Advisory Committee on the Constitution (ACC) advised the 216th General Assembly (2004) to approve this recommendation with additional language. The Assembly Committee on Church Polity recommended the ACC’s suggested language.

The Advocacy Committee on Women’s Concerns advised:

“In any process that is accountable to the interests of multiple parties, the interest of the victim can never be the final priority of anyone involved but the victim. Further, victims who do not know the process, who are suffering from post-traumatic stress, or are not capable of fully understanding the nuances of the process need an advocate that has as primary responsibility the interest of the victim.”

The proposed amendments to D-10.0202 and D-10.0203 were referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 84, 309, Item 04-08, Recommendation 7, assembly committee report: p. 6), which recommended an alternate resolution by a vote of 59/0/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-E.6. Disclosure in Alternative Forms of Resolution— On Amending D-10.0202g (Item 04-08 – Recommendation 9)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall D-10.0202g be amended by adding a new section “(3)” and renumbering the succeeding items in the section. New section “(3)” shall read as follows: [Text to be added or inserted is shown as italic.]

“(3) The session or permanent judicial commission shall convene to receive the settlement agreement; vote to approve it by at least two-thirds of the members eligible to vote; make a record of its proceedings according to the provisions of D-11.0601d, including the name of the accused, the substance of the accusation or charge, and censure; and transmit its decision to the clerk of session or the stated clerk, who shall report it according to the provisions of D-11.0701.

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“The intent of this [proposed] amendment is to ensure that the church’s commitment to truthfulness as expressed in the disclosure provisions of a disciplinary trial (D-11.0701) are also expressed in disciplinary proceedings that utilize alternative forms of resolution to reach settlement agreements (D-10.0202g). Since the introduction of the provisions for alternative forms of resolution into the *Book of Order*, there is an increasing utilization of non-disclosure clauses in settlement agreements. In some instances, such non-disclosure agreements have resulted in the sealing of records. This practice is contrary to the provisions of D-11.0000 that result in the disclosure of the results of disciplinary case proceedings.

“The provisions of this proposed amendment can be implemented with the same attention to sensitive information that is the standard of practice for disclosure of the outcome of disciplinary case trials.”

The Advisory Committee on the Constitution advised the 216th General Assembly

(2004) to approve this recommendation, noting:

“This amendment provides useful clarification of the process for approving the settlement of charges. It would clarify the requirement of recording any alternative form of resolution in formal action and of a report by the session or permanent judicial commission....”

The Advocacy Committee for Women’s Concerns advised:

“[The proposed amendment] aids in providing clearer standards of communication in the church and therefore assists in preventing secrecy from dominating sexual abuse and sexual abuse and misconduct cases. Disclosure strengthens the ability of the church to provide greater safety and protection to the vulnerable members of the community.”

The proposed amendment to D-10.0202g was referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 85, 313, Item 04-08, Recommendation 9, assembly committee report: p. 7), which recommended approval by a vote of 59/0/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-E.7 Providing for Victim Impact Statement—On Amending D-11.0403e (Item 04-08 – Recommendation 4)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall D-11.0403e be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

“e. If the accused is found guilty or after the guilty plea, the session or permanent judicial commission ~~may~~ *should* hear evidence as to the extent of the injury suffered, mitigation, rehabilitation, and redemption. This evidence may be offered by either party, or the original accuser, or that person’s representative. *The person who was directly harmed by the offense may submit a victim impact statement. The statement shall not be subject to cross-examination.* The session or permanent judicial commission shall then meet privately to determine the degree of censure to be imposed. (D-12.0000) Following such determination and in an open meeting, the moderator of the session or permanent judicial commission shall then pronounce the censure.”

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“...This [proposed] amendment will extend the opportunity for a session or permanent judicial commission to receive a statement about the harm that was experienced by the person who was the victim. The judicial process is clearly one of discernment. Investigating committees discern the meaning of evidence as to whether they will bring charges against an accused. Sessions or permanent judicial commissions discern the evidence presented to them as to whether they will find guilt or innocence. If guilt is determined by a session or permanent judicial commission, it must discern the appropriate censure to impose. This amendment would make it clear that the censure hearing involves discernment by making explicit in the Rules of Discipline that statements regarding harm to the person who was the victim of the offense are permitted during a censure hearing.”

The Advisory Committee on the Constitution advised the 216th General Assembly (2004) to approve the recommendation with additional amendment.

The ACC noted:

“...[I]t is unwise to allow the introduction of a victim’s statement without a corollary cross-examination. The tone and style of the judicial process becomes punitive to the accused and removes from her/him important judicial protections.”

The 216th General Assembly (2004) declined to authorize cross examination.

The Advocacy Committee for Women’s Concerns advised:

“The change proposed by Recommendation 4 gives the victim a voice. This change is necessary because it requires the voice of the victim to be part of the censure process whereby it was previously not required. Further, it provides flexible options for procedure that consider the comfort and convenience of the victim.”

The proposed amendment to D-11.0403e was referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 83, 304, Item 04-08, Recommendation 4, assembly committee report: p. 5), which recommended an alternate resolution by a vote of 58/0/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-E.8. Voluntary Acts of Repentance—On Amending D-12.0103 and D-12.0104 (Item 04-08 – Recommendation 8)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall the following sections be amended: [Text to be added or inserted is shown in italics.]

a. Amend D-12.0103 by adding a new section to read as follows:

“d. In a case in which the offense is sexual abuse of another person, the rehabilitation program may include the advice that the person found guilty complete a voluntary act or acts of repentance. Such acts may include: public acknowledgment of guilt, community service, symbolic restoration of what was lost by the person who was harmed, and/or contributions toward documented medical/psychological expenses incurred by the person who was harmed.”

b. Amend D-12.0104 by adding a new section “c.” and re-letter current “c.”–“h.” as “d.”–“i.” The new section shall read as follows:

“c. In a case in which the offense is sexual abuse of another person, the rehabilitation program may include the advice that the person found guilty complete a voluntary act or acts of repentance. Such acts may include: public acknowledgment of guilt, community service, symbolic restoration of what was lost by the person harmed, and/or contributions toward documented medical/psychological expenses incurred by the person who was harmed.”

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“The concept...presented by [this proposed amendment] was presented by the survivors as a means of restoration and healing for those who have been harmed as children by sexual abuse that occurred through the misuse of ministerial office.

“The Preamble to the Rules of Discipline makes explicit that a purpose of discipline in the church is ‘to correct or restrain wrongdoing in order to bring members to repentance [or] ... restoration...’ (D-1.0101). This high calling is reinforced by the Preamble’s declaration that power in the

exercise of church discipline ‘is one for building up the body of Christ, not for destroying it, for redeeming, not for punishing.’ (D-1.0102)”

The ICI’s rationale for this recommendation also noted:

“The biblical model of Zacchaeus’ response to his encounter with Jesus at Jericho (Luke 19:1–10) is instructive. Zacchaeus’ repentance is expressed by his freely acknowledging his sin and by assuming corrective action. This Scripture makes clear that repentance can include voluntary restitution as an outward expression of inner change.

The ICI continued:

“While secular culture may define restitution exclusively in financial terms, the church as the body of Christ recognizes that the spiritual nature of repentance leads to a broader understanding of the nature of acts of restitution. Therefore, this amendment enumerates types of restitution that are non-financial but may nevertheless be concrete demonstrations of repentance.”

The Advisory Committee on the Constitution (ACC) advised the 216th General Assembly (2004) to approve the ICI recommendation with amendments, changing the word “restitution” to “repentance”. The Committee agreed to the ACC’s recommended changes.

The ACC noted:

“Restitution to victims is almost always available through the secular judicial process, but is beyond the authority of church courts, whose discipline is ‘purely moral or spiritual in its object, and not attended with any civil effects....’ (G-1.0308)....does this ellipsis belong here?? With the amendments ... [replacing ‘restitution’ with ‘re-

pentance’], the [amendment] is clear and does not exceed the limits of the church’s authority.”

The Advocacy Committee for Women’s Concerns advised:

“The proposed change provides restitution as an additional way to assist in closure for the person found guilty and for the person who was sexually abused. The variety of options offered honors the many ways in which work toward wholeness in the community and in the individual may be lived out.”

The proposed amendments to D-12.0103 and D-12.0104 were referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 84–85, 311, Item 04-08, Recommendation 8, assembly committee report: pp. 6-7), which recommended an alternate resolution by a vote of 59/0/0. The 216th General Assembly (2004) approved the committee’s recommendation.

04-E.9. Initiation of Appeal in a Disciplinary Case—On Amending D-13.0102 and D-13.0106 (Item 04-08 – Recommendation 5)

The 216th General Assembly (2004) directed the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall D-13.0100 be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italics.]

a. Shall the current text of D-13.0102 be deleted and new text inserted to read as follows:

~~“Only the person found guilty may initiate the first level of appeal by the filing of a written notice of appeal. Either party may initiate the first level of appeal by the filing of a written notice of appeal.”~~

b. Shall D-13.0106 be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italics.]

~~“a. The grounds for appeal by the person found guilty are~~

~~“a. (1) irregularity in the proceedings;~~

~~“b. (2) refusing a party reasonable opportunity to be heard or to obtain or present evidence;~~

~~“c. (3) receiving improper, or declining to receive proper evidence or testimony;~~

~~“d. (4) hastening to a decision before the evidence or testimony is fully received;~~

~~“e. (5) manifestation of prejudice in the conduct of the case;~~

~~“f. (6) injustice in the process or decision;~~

~~“g. (7) error in constitutional interpretation; and~~

~~“h. (8) undue severity of censure.~~

~~“b. The grounds for appeal by the prosecuting committee are~~

~~“(1) irregularity in the proceedings;~~

~~“(2) refusing a party reasonable opportunity to be heard or to obtain or present evidence;~~

- “(3) *receiving improper, or declining to receive proper evidence or testimony;*
- “(4) *hastening a decision before the evidence or testimony is fully received;*
- “(5) *manifestation of prejudice in the conduct of the case; and*
- “(6) *error in constitutional interpretation.*”

Rationale

Please refer to the Independent Committee of Inquiry information on this amendment, as found in the General Background on page 14. The ICI further noted:

“The current form of the Rules of Discipline provides that the initial right to appeal applies only to the due process rights of a party who is found guilty.... Under the current form of the Rules of Discipline there is no recourse at the first level of a disciplinary case for the prosecuting committee if a session or permanent judicial commission commits reversible error in the process leading to finding the accused not guilty....

“This [proposed] amendment will ensure accountability at all levels of the disciplinary process, and that all parties have the same opportunity, in the service of justice, to appeal for the correction of errors.”

The Advisory Committee on the Constitution advised the 216th General Assembly (2004) with the following comment:

“This provision would allow either the prosecuting committee or an accused convicted of an offense to initiate an appeal. Currently, only an accused may initiate such an appeal. Whether such appeals are desirable raises several questions. Such appeal rights would be broader than the secular judicial system allows. It also would perpetuate disciplinary cases in a manner that may discourage victims from seeking civil remedies. On the other

hand, the amendment is consistent with the concern that the potential for error is greater in a voluntary judicial process than it is in the professional secular system. If the 216th General Assembly (2004) believes that it is desirable to allow prosecuting committees to pursue such appeals, the proposed amendment appears clear and adequate to accomplish that intent.”

The Advocacy Committee for Women’s Concerns advised:

“The proposed change gives equal accountability at all levels and is therefore more just. Current Rules of Discipline procedure allows only the accused to appeal a guilty verdict by a presbytery permanent judicial commission (PJC). Given the potential for procedural error in a presbytery PJC that may not have much experience with these issues, justice could be subverted. Opening the initial PJC decision to procedural appeals by the accuser honors both the rights of the accused and of the victim for a fair trial.”

The proposed amendments to D-13.0102 and D-13.0106 were referred to the Assembly Committee on Church Polity (*Minutes*, 2004, Part I, pp. 83, 305–6, Item 04-08, Recommendation 5, assembly committee report: p. 5, which recommended approval by a vote of 57/2/0. The 216th General Assembly (2004) approved the committee’s recommendation.

LIST OF PROPOSED AMENDMENTS

	Page
04-A. Former COM Elder Moderating Meetings of Congregations— On Amending G-7.0306 (Item 04-13).....	1
04-B. Proposed Amendments Concerning Immigrant Fellowships	4
04-B.1. Recognizing Immigrant Leaders as Elders— On Amending G-9.0503a(2) (Item 09-02).....	5
04-B.2. Granting a Fellowship Voice and Vote— On Amending G-9.0503a(2) (Item 09-01).....	7
04-C. Ending Parish Associate Relationships— On Amending G-14.0515d (Item 05-12)	10
04-D. Clarifying Time Limits—On Amending D-6.0306a, D-8.0302a and D-13.0302a (Item 04-03).....	11
04-E. Proposed Amendments Resulting from Concern with Abuse	14
04-E.1.a. Minister Reporting Child Abuse—On Amending G-6.0204 (Item 04-08 – Recommendation 11.a.).....	15
04-E.1.b. Elder Reporting Child Abuse—On Amending G-6.0304 (Item 04-08 – Recommendation 11.b.).....	16
04-E.1.c. Deacon Reporting Child Abuse—On Amending G-6.0402 (Item 04-08 – Recommendation 11.c.).....	16
04-E.2. Pastoral Inquiry—On Amending G-9.0503a (Item 04-08 – Recommendation 6).....	17
04-E.3. Adding to the Rules of Discipline Preface— On Amending D-1.0101 (Item 04-08 – Recommendation 3).....	19
04-E.4. Imposing Administrative Leave— On Amending D-10.0106 (Item 04-10).....	21
04-E.5. Rights of Accuser—On Amending D-10.0202 and D-10.0203 (Item 04-08 – Recommendation 7).....	23
04-E.6. Disclosure in Alternative Forms of Resolution— On Amending D-10.0202g (Item 04-08 – Recommendation 9).....	25
04-E.7. Providing for Victim Impact Statement—On Amending D-11.0403e (Item 04-08 – Recommendation 4).....	26
04-E.8. Voluntary Acts of Repentance—On Amending D-12.0103 and D-12.0104 (Item 04-08 – Recommendation 8)	27
04-E.9. Initiation of Appeal in a Disciplinary Case—On Amending D-13.0102 and D-13.0106 (Item 04-08 – Recommendation 5)	29