

Item

On Amending D-7.0201 and D-7.1501 of the Revision to the Rules of Discipline to Remove Time Limits for Filing Allegations in All Disciplinary Cases—From the Rules of Discipline Task Force.

The Rules of Discipline Task Force recommends that the 224th General Assembly (2020) direct the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

[If approved by the General Assembly and adopted by the presbyteries, this would apply to cases where allegations are filed following June 27, 2021. This action would change D-7.0201 and D-7.1501 of the revision to the Rules of Discipline, which the task force is also recommending.]

1. Shall D-7.0201 of the proposed Church Discipline be stricken as follows: [Text to be deleted is shown with a strike-through.]

“D-7.0201 Allegation

“For filing an allegation in a disciplinary matter, the following applies:

~~a.—Time Limit~~

~~“No written allegation shall be filed later than five years from the time the alleged offense was committed except in cases of sexual abuse of another person as defined in D-7.0901, in which case the five year time limit shall not apply. There is also no time limit to file an allegation that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk.”~~

Sections “b.” through “f.” shall be re-alphabetized as “a.” through “e.”.

2. Shall D-7.1501 amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

“D-7.1501 Time Limits for Filing Charges

“Once a written allegation has been submitted, no charges shall be filed later than one year from the date of the investigating committee’s first meeting, except as noted below.

“a. In those instances where civil proceedings have commenced, the investigating committee may request of its session or permanent judicial commission and may receive an extension of its time for filing charges of up to six months from the conclusion of any investigation or resulting trial undertaken by the civil authorities. The clerk of session or stated clerk of the council shall maintain contact with civil authorities to determine when such civil proceedings have concluded.

~~“b. For instances of sexual abuse of another person as defined in D-7.0901 the five year time limit for filing an allegation shall not apply. There is also no time limit for alleging that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk. Charges in these instances may be brought regardless of the date on which an offense is alleged to have occurred.~~

“~~c. b.~~ For instances where a former minister of the Word and Sacrament who renounced jurisdiction while being accused in a disciplinary case rejoins the church, ~~no time limit from the time of the commission of the alleged offense to the filing of charges shall apply.~~ € charges based on all accusations that had been made by the time that the former minister of the Word and Sacrament had renounced jurisdiction may be brought ~~regardless of the date on which any such offense is alleged to have occurred.~~”

Rationale

As we consulted across the church regarding changes to the Rules of Discipline, the task force came to see that the church is divided over whether there should be time limits for bringing allegations in all disciplinary matters. The power vested in Christ’s church in discipline is a dispensation of mercy that all children of God may be presented faultless in the day of Christ (current *Book of Order*, D-1.0102).

On the one hand, people and congregations damaged by betrayal of trust experience frustration when they find that the time limit for filing allegations has passed. In some instances of betrayal of trust, it takes years for the betrayal to become known, such as for embezzlement. In such cases, congregations can move on only after justice has been served.

However, the requirement to deal with disciplinary matters in a manner that is just, timely, and economical argues for time limits for filing allegations. Years after a betrayal of trust it may not be possible to find evidence or witnesses to pursue the matter and achieve justice through disciplinary process.

Currently, the Rules of Discipline provide that there is no time limit (other than the one-year time limit for investigations) for filing charges of sexual abuse or of failing to minimize the risk of sexual abuse. All other offenses bear a time limit of five years. The Rules of Discipline Task Force (the task force) recommends that this five-year limit also be removed prospectively—that is for all offenses that occur after the effective date of this amendment, June 27, 2021. Recognizing the division in the church regarding time limits, the task force presents this recommendation separately for the General Assembly and the presbyteries' consideration.

Nothing in this recommendation changes the requirement that charges must be filed within a year of an investigating committee's first meeting nor the duty of an investigating committee to determine "whether the offense alleged can be proved" (proposed Church Discipline, D-7.1003d; *c.f.* *Book of Order*, D-10.0202i).

The task force believes that the current practice of exempting the one narrowly defined offense of sexual abuse while all other offenses have a strict five-year limit has sometimes resulted in broken trust and deep, unresolved hurt. The 223rd General Assembly (2018) responded to one such situation when it amended the Rules of Discipline to remove all time limits from a second, narrowly defined offense of failing to minimize the risk of sexual abuse. It appears to the task force that it is a wiser decision to remove the five-year limit altogether rather than amending Church Discipline year by year as difficult situations arise.