

General Convention of The Episcopal Church 2024 Archives' Research Report

Resolution No.: 2024-A147
Title: Referring Lay Disciplinary Canon Issue to Standing Commission on Structure, Governance, Constitution and Canons
Proposer: Standing Commission on Structure, Governance, Constitution and Canons
Topic: Canons, Discipline

Directly Related: (Attached)

2018-D100 Refer a Resolution to Amend the Canons on Mutual Accountability (Referred)

Indirectly Related: (Available in the [Acts of Convention](#) database, searchable by resolution number)

None

In preparing this report, the Archives researched the resolutions in the Acts of Convention database for the period 1973 through 2022, selecting “direct” resolutions that have a substantive bearing on the proposed legislation. The “direct” resolutions are attached and “indirect” resolutions are available in the Acts of Convention database. Committee members who require other research assistance should contact the Archives through the [Research Request Form](#).

A147 - Referring Lay Disciplinary Canon Issue to Standing Commission on Structure, Governance, Constitution and Canons

Final Status: Not Yet Finalized

Proposed by: Standing Commission on Structure, Governance, Constitution and Canons
Has Budget Implications: No

Cost:

Amends C&C or Rules of Order: No

Requests New Interim Body: No

Changes Mandate Of Existing Ib: Yes

Directs Dfms Staff: No

Directs Dioceses: No

Directs Executive Council: No

HiA: HD

Legislative Committee Currently Assigned: 18 - Title IV Disciplinary Canons

Completion Status: Incomplete

Latest House Action: N/A

Supporting Documents: No

Resolution Text

Resolved, the House of _____ concurring,

That the Standing Commission on Structure, Governance, Constitution and Canons shall study and report back to the 82d General Convention with recommended canonical changes, if any, to

1. Authorize the Ecclesiastical Authority in the case of elected officers of a congregation or of the Diocese who are lay persons, or to authorize the Presiding Bishop in the case of elected officers of General Convention or Provinces who are lay persons, to act promptly to suspend or remove an elected officer from office in circumstances where:
 - a. there is credible evidence to believe that continuation of that elected lay leader in office poses a serious risk of criminal misconduct, bodily harm, or financial malfeasance, or

- b. the elected lay officer has been involuntarily committed for treatment, including treatment for substance abuse; or
- c. the elected lay officer, prior to their election, failed to disclose to those voting any (1) pending criminal charges or past criminal convictions or diversions for treatment, (2) past or current suspensions or removals from any professional bodies for misconduct, or (3) any past or current protective order against them, or
- d. efforts by the elected lay officer to obstruct authorized inquiries into any such allegations.

Any recommendations for canonical changes authorizing such suspension or removal shall also provide for prompt post-suspension or post-removal review before a neutral decisionmaker (diocesan or provincial, as the case may be), which must include other elected lay officers. In that review, the suspended or removed lay leader will be provided the evidence against them sufficiently before the hearing in order for them to gather responsive evidence and to present their defense to claimed misconduct. The reviewing body shall have the power to reinstate the elected lay leader if the factual basis for the removal is without substantial foundation.

- 2. To study and report back with recommended canonical language, if any, to provide for background checks for lay elected officers prior to standing for election, particularly for elected lay officers with authority over financial accounts, church disciplinary proceedings, or recommendations in the approval of clergy ordinations.

Explanation

The current canons do not expressly authorize prompt action to remove or suspend an elected lay officer where there are credible allegations of criminal misconduct, such as an indictment or other criminal charges, an audit showing the unexplained disappearance or misuse of funds from an account over which the elected lay officer has signature authority, or allegations of serious harm to children or others by the lay officer. Similarly, where an elected lay officer has been involuntarily committed for treatment, action should be authorized to protect the church and its people.

This resolution asks the Standing Commission on Structure, Governance, Constitution and Canons to study this issue and make appropriate recommendations for canonical changes, if any, they believe are needed to authorize prompt action to protect the church, its people, and its funds, while providing a workable avenue to contest such suspension or removal as unsupported by the evidence.

Any such recommended canonical changes must help assure that this authority is exercised where the evidence of past serious misconduct or significant imminent harm is strong. Any such recommended canonical changes must assure that the elected lay officer will be entitled to a prompt post-suspension hearing before a neutral decisionmaker, where the lay

officer is entitled to present evidence and to know in advance of the hearing the evidence on which the suspension or removal has been based.

This authority is to be exercised to protect the church, its people, and the public, and is not to be invoked because of differences in policy. The neutral reviewing body must include elected lay officers, in keeping with the polity of the Church and as a check against inappropriate use of this authority.

The second paragraph asks for a study and possible recommended canonical language to provide for background checks where elected lay officers will have significant financial or supervisory authority. That preventive step may help avoid cases of potential misconduct and harm to people and the mission of the church.



Resolution Number: 2018-D100
Title: Refer a Resolution to Amend the Canons on Mutual Accountability
Legislative Action Taken: Referred
Final Text:

Resolved, That Canon IV.1 is hereby amended to read as follows:

By virtue of Baptism, all members of the Church are called to holiness of life and accountability to one another. The Church and each Diocese shall support their members in their life in Christ and seek to resolve conflicts by promoting healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among all involved or affected. This Title applies to Members of the Clergy, who have by their vows at ordination accepted additional responsibilities and accountabilities for doctrine, discipline, worship and obedience. *This Title's provisions regarding Sexual Misconduct and the accountability thereof, also apply to lay persons employed by the church and church institutions, and lay people serving in volunteer roles of leadership, who by their public service commit themselves to the internal accountability of the Church.*

And be it further

Resolved, That Canon IV.3 is hereby added to read as follows:

Sec. 1. A Member of the Clergy shall be subject to proceedings under this Title for:

- (a) knowingly violating or attempting to violate, directly or through the acts of another person, the Constitution or Canons of the Church or of any Diocese;**
- (b) failing without good cause to cooperate with any investigation or proceeding conducted under authority of this Title; or**
- (c) intentionally and maliciously bringing a false accusation or knowingly providing false testimony or false evidence in any investigation or proceeding under this Title.**

Sec. 2. A Member of the Clergy shall be accountable for any breach of the Standards of Conduct set forth in Canon IV.4.

Sec. 3. Any person, lay or ordained, employed by the Church or a church-affiliated institution, or any person serving in a volunteer position of leadership within the Church, shall be accountable for any act of misconduct as set forth by Canon IV.4.h(1), (5) or (6).

~~Sec. 3.~~ Sec. 4 In order for any conduct or condition to be the subject of the provisions of this Title, the Offense complained of must violate applicable

provisions of Canon IV.3 or IV.4 and must be material and substantial or of clear and weighty importance to the ministry of the Church.

And be it further

Resolved, That Canon IV.6 is hereby amended to add:

Sec. 1. Each Diocese shall provide for and publicize methods and means of reporting information concerning Offenses.

Sec. 2. Information concerning Offenses may be submitted to the Intake Officer in any manner and in any form.

Sec 3. In the event of an offense committed by a lay person, information concerning the offense shall be brought to the Intake officer.

~~Sec. 3.~~**Sec. 4.** Any person other than the Intake Officer who receives information regarding an Offense shall promptly forward the information to the Intake Officer. A Bishop Diocesan shall forward information to the Intake Officer whenever the Bishop Diocesan believes that the information may indicate conduct constituting one or more Offenses.

~~Sec. 4.~~**Sec. 5.** Upon receipt of such information, the Intake Officer may make such preliminary investigation as he or she deems necessary, and shall incorporate the information into a written intake report, including as much specificity as possible. The Intake Officer shall provide copies of the intake report to the other members of the Reference Panel and to the Church Attorney.

~~Sec. 5.~~**Sec. 6.** If the Intake Officer determines that the information, if true, would not constitute an Offense, the Intake Officer shall inform the Bishop Diocesan of an intention to dismiss the matter. If the Bishop Diocesan does not object, the Intake Officer shall dismiss the matter. The Intake Officer shall provide written notice to the Complainant, the subject Member of the Clergy, and the Bishop Diocesan of the decision of dismissal, the reasons therefor, and the Complainant's right to appeal the decision within thirty days of the date of the notice and shall send a copy of that notice and the written intake report to the president of the Disciplinary Board. If the Complainant wishes to appeal the dismissal, the Bishop shall appoint an Advisor for the Complainant within 15 days of the date of the notice of dismissal. The Advisor shall assist the Complainant in preparing and signing a written statement of the acts complained of, which statement shall be sent by the Advisor to the president of the Disciplinary Board, along with a statement that the Complainant appeals the dismissal. The intake report and any related information, in the case of a dismissal, shall be retained by the Intake Officer and may be considered in connection with any additional information that may come to the Intake Officer thereafter concerning the subject Member of the Clergy.

Sec. 7. When the matter involves a lay person, it proceeds according to the provisions of Canon 6. Sec 6, with the following provisions.

1.) Should the lay minister be an employee of the Church under the supervision of a clergy person, that clergy person may, at any time, issue a pastoral instruction to the lay minister or employee.

A pastoral instruction must: (a.) be made in writing (b.) be made in agreement with the Bishop Diocesan, (c) otherwise agree with the provisions of Canon 7. Sec 2 with regards to pastoral directions. 2.) Directions provided by the Clergy or the Reference Panel may include actions such as limiting committee involvement, requiring parish transfer, limiting contact with priest, removal from parish, or firing - in the event of employment by the Church.

Sec. 6. Sec. 8. In the event of an appeal of a dismissal, the president of the Disciplinary Board shall, within thirty days of the receipt of the appeal, review the intake report and either affirm or overrule the dismissal. The president shall promptly notify the Complainant and the Complainant's Advisor, the subject Member of the Clergy and the subject Member's Advisor, if any, the Intake Officer, and the Bishop Diocesan of the decision. If the decision is to overrule the dismissal, the president shall refer the intake report to the Reference Panel within 15 days.

Sec. 7. Sec. 9. If the Intake Officer determines that the information, if true, would constitute an Offense, the Intake Officer shall promptly forward the intake report to the Reference Panel. The president shall promptly select from the Disciplinary Board, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. At the same time as forwarding the intake report to the Reference Panel, the Intake Officer shall send a notice to the subject Member of the Clergy informing him or her of the nature of the alleged Offense(s), the identity of any persons who have been designated as Complainants, and describing the next procedural steps that the Member of the Clergy can anticipate. The notice shall also remind the Member of the Clergy of his or her duty under Canon IV.3.1(b) to cooperate in the subsequent proceedings.

Sec. 8. Sec. 10. The Reference Panel shall meet as soon as possible after receiving the intake report to determine how to refer the report. Referral options are (a) no action required other than appropriate pastoral response pursuant to Canon IV.8; (b) conciliation pursuant to Canon IV.10; (c) investigation pursuant to Canon IV.11; (d) to the Conference Panel pursuant to Canon IV.12; or (e) referral for possible agreement with the Bishop Diocesan regarding terms of discipline pursuant to Canon IV.9. Referral decisions shall require the approval of a majority of the Reference Panel. The Reference Panel shall monitor the progress of each referral on a monthly basis to ensure that the matter is progressing in a timely fashion. Until such time as the matter is referred to a Hearing Panel, if the Reference Panel determines that the matter has reached an impasse or is not progressing in a timely fashion, it may re-refer the matter. Once a matter is referred to a Hearing Panel, Canon IV.15.1 shall govern any issue regarding the progress of the matter.

Sec. 9. Sec. 11. If the determination of the Reference Panel is to take no action other than an appropriate pastoral response, the Panel shall notify the Complainant and the subject Member of the Clergy of the determination and the basis for the determination to take no action other than an appropriate

pastoral response. If the referral is to conciliation, the provisions of Canon IV.10 shall apply. If the referral is to investigation, the provisions of Canon IV.11 shall apply. If the referral is to the Bishop Diocesan for possible Agreement and an Agreement is not reached within 90 days of the referral, the Reference Panel will re-refer the matter, in accordance with Canon IV.6.8. ~~Sec. 10.~~ Sec. 12. All communications and deliberations during the intake and referral stages shall be confidential except as the Bishop Diocesan deems to be pastorally appropriate or as required by law.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Austin, 2018* (New York: General Convention, 2018), pp. 552-554.