

24-K — D-7.0501

INVESTIGATION

D-7.0501 REFERRAL TO INVESTIGATING COMMITTEE (POL-02)

The 226th General Assembly (2024) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall D-7.0501 Referral to Investigating Committee be amended as follows:

(Added text is in *italics*.)

When a clerk of session or the stated clerk of a presbytery receives an allegation, without undertaking further inquiry, that clerk shall then report to the council only that an offense has been alleged without naming the *person* accused or the nature of the alleged offense and *shall* refer the statement of allegation promptly to an investigating committee, which shall conduct an inquiry as defined below. *Pursuant to G-4.0302, the clerk shall report to civil legal authorities any knowledge of harm, or risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or adult lacking mental capacity. The clerk of session or stated clerk shall also inform the accuser of the disciplinary process and their rights and responsibilities in the process.*

Background and Rationale

Editor's note: The original rationale was written for language which was significantly amended by the General Assembly. This edited rationale is limited to those sections of the rationale which apply to the approved proposed amendments.

The context for D-7.0501 is the procedure by which submission of a formal accusation of a disciplinary offense prompts the council of a church or presbytery to form an investigating committee and commence the disciplinary process of the *Book of Order*.

Disclosing relevant information as our primary moral obligation follows in G-4.0302, the Mandatory Reporting provision. Here is the explicit mandate to take positive action to protect vulnerable people by disclosing information to authorities. It reiterates the primary moral value which prioritizes protecting people at risk. G-4.0302 makes clear the substantive basis for disclosing: "...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..." Knowledge is essential to being able to act preventively.

The second part of the moral and polity framework is our obligation which is implicit in Chapter 7 of the Book of Order Disciplinary Process. D-7.0201a. and D-7.1501b. both address accountability in circumstances when a person "knew, or reasonably should have known of the reasonable risk of sexual abuse of another... [and] failed to take reasonable steps to minimize the

risk.” The moral commitment in Chapter 7 is that we are responsible for recognizing a risk and that once we know, we are obligated to act to reduce the possibility of harm.

Advice—From the Advisory Committee on the Constitution (ACC)

Editor’s note: The Advisory Committee on the Constitution advised that the 226th General Assembly (2024) disapprove the original recommendation of Item POL-02. The committee amended the original recommendation. This edited advice is limited to those sections of the advice which apply to the approved proposed amendments.

The *Book of Order* includes provisions designed to protect the vulnerable, such as requirements for administrative leave or other restrictions when there has been an allegation of sexual abuse (D-7.09), and requirements for sexual misconduct and child and youth protection policies (G-3.0106). The confidentiality provisions for the exercise of pastoral care state explicitly that confidentiality is not to be used to keep secret allegations of abuse and mandate reporting to ecclesiastical and civil authorities, especially in a situation where an individual “reasonably believes that there is a risk of future physical harm or abuse” (G-4.0302).

The Assembly Committee on Polity amended the original Recommendation significantly then approved Item POL-02, 37/0. The 226th General Assembly (2024) approved Item POL-02, 401/4.

For the full report on POL-02, go to <https://www.pc-biz.org/search/3001123>