

18-H. Time Limit

On Amending D-10.0401 (Item 06-24)

The 223rd General Assembly (2018) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

18-H.1.

Shall D-10.0401b of the Form of Government be amended as follows: [Text to be deleted is shown with strike-through; text to be added or inserted is shown as italic.]

“b. For instances of sexual abuse of another person, the five-year time limit shall not apply. There is also no time limit for charging that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-10.0401c(1) or (2) failed to take reasonable steps to minimize the risk. Both charges may be brought regardless of the date on which an offense is alleged to have occurred.”

18-H.2.

Shall D-10.0401c(1) of the Form of Government be amended as follows: [Text to be deleted is shown with strike-through; text to be added or inserted is shown as italic.]

“(1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or”

Rationale

This proposed amendment originates from the Advisory Committee on the Constitution comment on a referral from the 222nd (2016) General Assembly to the Office of the General Assembly. The original item before the 222nd (2016) General Assembly originated from the Advocacy Committee for Women’s Concerns.

Advice from the Advisory Committee on the Constitution

The Advisory Committee on the Constitution advised the 223rd General Assembly (2018) to refer Item 06-24 to the Rules of Discipline Task Force or approve as amended. They provided the following advice [edited].

[b.] The ACWC proposed and ACC recommended languages both impose a level of responsibility on persons that is not currently part of the Rules of Discipline. The ACC recommendation imposes a negligence standard for failure to respond to situations involving a reasonable risk of sexual misconduct, including the failure to report appropriately.

[c.1)] This language recognizes that minor persons cannot consent. The second clause clarifies that sexual abuse includes persons who lack of the capacity to consent for any reason whatsoever.

The Assembly Committee on Church Polity and Ordered Ministry (06) voted to approve the proposed amendment as amended 47/1. The 223rd General Assembly (2018) approved the committee’s recommendation with amendment 455/16. (See Minutes, 2018, Part I, pp. 73–74, 631–32.)

For the full report of Item 06-24, go to <https://www.pc-biz.org/#/committee/3000008/business>