

1 **OVERTURE 3** from Grace Presbytery

(to CCB, OC)

2 “Revise *BCO* 15-5. a & b”

3
4 **Whereas** the *Book of Church Order (BCO)* recognizes a distinction between commissions
5 (*BCO* 15-1), which “conclude the business assigned to it” and judicial commissions
6 (*BCO* 15-3), which must submit its decision, without debate, for approval or
7 disapproval of presbytery; and
8

9 **Whereas** the *BCO* establishes the principle that judicial commissions act on behalf of a
10 presbytery, but do not have their decisions finalized until the entire court hears and
11 approves the judgment rendered (*BCO* 15-3); and
12

13 **Whereas** the Standing Judicial Commission of the General Assembly (SJC) has been
14 established (*BCO* 15-4 and *Rules of Assembly Operations (RAO)* 17) in a way that
15 isolates its decisions from review of the General Assembly, making its judgments
16 final, without approval of the General Assembly as a whole (*BCO* 15-5. a and b); and
17

18 **Whereas** this represents a contradiction in the way the various courts of the church
19 operate—with the judicial commissions of presbyteries operating in one fashion and
20 the General Assembly/SJC operating in another; and
21

22 **Whereas** this contradiction may violate the essential principle of *BCO* 11-3 that “all Church
23 courts are one in nature”; and
24

25 **Whereas** insulation of SJC Decisions from the oversight of the entire General Assembly
26 may violate the principle of the General Assembly having the power to “bear
27 testimony against error in doctrine” (*BCO* 14-6. a); and
28

29 **Whereas** the means for ensuring that the SJC remain the General Assembly’s judicial
30 commission is already present in the model found in presbytery judicial commissions
31 in *BCO* 15-3; and
32

33 **Whereas**, the General Assembly may wish to decide a judicial case, notwithstanding the
34 limiting Vows taken by SJC members (*RAO* 17-1), just as a presbytery does; and
35

36 **Whereas**, the General Assembly may wish to decide a judicial case by not ordinarily
37 deferring to the factual findings of the presbytery or its discretion and judgment
38 (*BCO* 39-3.2);
39

40 **Be it therefore resolved** that *BCO* 15-5. a and b be amended as follows (additions
41 underlined):
42

43 **15-5. a.** In the cases committed to it, the Standing Judicial Commission shall
44 have the judicial powers and be governed by the judicial procedures of the
45 General Assembly. ~~The decision of the Standing Judicial Commission shall be~~
46 ~~the final decision of the General Assembly except as set forth below, to which~~
47 ~~there may be no complaint or appeal.~~ Members of the Standing Judicial
48 Commission may file concurring or dissenting opinions, or a minority report
49 as set forth in (c) below. The General Assembly may direct the Standing
50 Judicial Commission to retry a case if upon the review of its minutes
51 exceptions are taken with respect to that case.
52

1 b. In each case the Standing Judicial Commission shall issue a summary of
2 the facts, a statement of the issues, its judgment and its reasoning, together
3 with any concurring or dissenting opinions. ~~all of which shall be entered on~~
4 ~~the minutes of the General Assembly and shall be reported by the Stated Clerk~~
5 ~~to the next General Assembly. The judgment shall be effective from the time~~
6 ~~of its announcement to the parties. The General Assembly without debate~~
7 ~~shall approve or disapprove of the judgment, or may refer, (a debatable~~
8 ~~motion), any strictly constitutional issue(s) to the Committee on Constitutional~~
9 ~~Business. In the case of referral, the Standing Judicial Commission shall either~~
10 ~~dismiss some or all of the specific charges raised in the case or decide the case~~
11 ~~only after the report of the Committee on Constitutional Business has been~~
12 ~~heard and discussed. If the General Assembly approves, the judgment of the~~
13 ~~Standing Judicial Commission shall be final and shall be entered on the~~
14 ~~minutes of the General Assembly as the action. If the General Assembly~~
15 ~~disapproves, it may assume original jurisdiction at the point of the original~~
16 ~~complaint or indictment, and/or assign the case back to the Standing Judicial~~
17 ~~Commission, with or without the assumption of original jurisdiction, and/or~~
18 ~~appoint, through the moderator, a special commission to hear the case again,~~
19 ~~with or without the assumption of original jurisdiction.~~
20

21 If approved, these two sections would read as follows:

22
23 **15-5. a.** In the cases committed to it, the Standing Judicial Commission shall
24 have the judicial powers and be governed by the judicial procedures of the
25 General Assembly. Members of the Standing Judicial Commission may file
26 concurring or dissenting opinions, or a minority report as set forth in (c) below.
27 The General Assembly may direct the Standing Judicial Commission to retry
28 a case if upon the review of its minutes exceptions are taken with respect to
29 that case.
30

31 b. In each case the Standing Judicial Commission shall issue a summary of
32 the facts, a statement of the issues, its judgment and its reasoning, together
33 with any concurring or dissenting opinions. The General Assembly without
34 debate shall approve or disapprove of the judgment, or may refer, (a debatable
35 motion), any strictly constitutional issue(s) to the Committee on Constitutional
36 Business. In the case of referral, the Standing Judicial Commission shall either
37 dismiss some or all of the specific charges raised in the case or decide the case
38 only after the report of the Committee on Constitutional Business has been
39 heard and discussed. If the Assembly approves, the judgment of the
40 Commission shall be final and shall be entered on the minutes of the
41 Assembly as the action. If the General Assembly disapproves, it may assume
42 original jurisdiction at the point of the original complaint or indictment, and/or
43 assign the case back to the Standing Judicial Commission, with or without the
44 assumption of original jurisdiction, and/or appoint, through the moderator, a
45 special commission to hear the case again, with or without the assumption of
46 original jurisdiction.
47

48 *Adopted by Grace Presbytery at its stated meeting, September 10, 2013*

49 *Attested by /s/ RE Samuel J. Duncan, Stated Clerk, Pro Tem*