

1 **OVERTURE 13** from Southwest Florida Presbytery (to CCB, OC)

2 “Revise *BCO* 15-1 and 15-5.a and b”

3 Note: This overture is similar to but not identical with Overture 3.

4
5 **Whereas**, the *Book of Church Order (BCO)* recognizes a distinction between commissions
6 (*BCO* 15-1), which “conclude the business assigned to it” and judicial commissions
7 (*BCO* 15-3), which must submit its decision, without debate, for approval or
8 disapproval of presbytery; and
9

10 **Whereas**, the *BCO* establishes the principle that judicial commissions act on behalf of a
11 presbytery, but do not have their decisions finalized until the entire court hears and
12 approves the judgment rendered (*BCO* 15-3); and
13

14 **Whereas**, the Standing Judicial Commission of the General Assembly (SJC) has been
15 established (*BCO* 15-4) and Rules of Assembly Operations (*RAO* 17) in a way that
16 isolates its decisions from review of the General Assembly, making its judgments
17 final, without approval of the General Assembly as a whole (*BCO* 15-5.a and b); and
18

19 **Whereas** this represents a contradiction in the way the various courts of the church operate—
20 with presbyteries and their judicial commissions operating in one fashion and the
21 General Assembly and the SJC operating in another; and
22

23 **Whereas**, this contradiction may violate the essential principle of *BCO* 11-3 that “all Church
24 courts are one in nature;” and
25

26 **Whereas**, insulation of SJC Decisions from the oversight of the entire General Assembly
27 may violate the principle of the General Assembly having the power to “bear
28 testimony against error in doctrine” (*BCO* 14-6.a); and
29

30 **Whereas**, the means for ensuring that the SJC remain the General Assembly’s judicial
31 commission is already present in the model found in presbytery judicial commissions
32 in *BCO* 15-3; and
33

34 **Whereas**, the General Assembly may wish to decide a judicial case, notwithstanding the
35 limiting vows taken by SJC members (*RAO* 17-1), just as a presbytery does; and
36

37 **Whereas**, the General Assembly may wish to decide a judicial case by not ordinarily
38 deferring to the factual findings of the presbytery or its discretion and judgment (*BCO*
39 39-3.2); and
40

41 **Whereas**, there is recognition of the need for informed, careful deliberation on the part of
42 commissioners in order to ensure fair outcomes in judicial proceedings (cf. OMSJC
43 10.8.a-b; 17.8.b)

1 **Therefore, be it resolved** that *BCO* 15-1 and 15-5.a and b be amended as follows
2 (underlining for additions; strike-through for deletions):

3 15-1. A commission differs from an ordinary committee in that while a
4 committee is appointed to examine, consider and report, a commission is
5 authorized to deliberate upon and conclude the business referred to it,
6 except in the case of judicial commissions of a Presbytery appointed under
7 *BCO* 15-3 and the case of the Standing Judicial Commission of the
8 General Assembly appointed under *BCO* 15-4. A commission shall keep a
9 full record of its proceedings, which shall be submitted to the court
10 appointing it. Upon such submission this record shall be entered on the
11 minutes of the court appointing, except in the case of a presbytery
12 commission serving as a session or a judicial commission as set forth in
13 *BCO* 15-3 and the case of the Standing Judicial Commission of the
14 General Assembly appointed under *BCO* 15-4. When a commission is
15 appointed to serve as an interim Session, its actions are the actions of a
16 Session, not a Presbytery. Every commission of a Presbytery or Session
17 must submit complete minutes and a report of its activities at least once
18 annually to the court which commissioned it.

19
20 15-5. a. In the cases committed to it, the Standing Judicial Commission
21 shall have the judicial powers and be governed by the judicial procedures
22 of the General Assembly. ~~The decision of the Standing Judicial~~
23 ~~Commission shall be the final decision of the General Assembly except as~~
24 ~~set forth below, to which there may be no complaint or appeal.~~ Members
25 of the Standing Judicial Commission may file concurring or dissenting
26 opinions, or a minority report as set forth in (c) below. The General
27 Assembly may direct the Standing Judicial Commission to retry a case if
28 upon the review of its minutes exceptions are taken with respect to that
29 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. ~~all of which shall be entered~~
34 ~~on the minutes of the General Assembly and shall be reported by the~~
35 ~~Stated Clerk to the next General Assembly. The judgment shall be~~
36 ~~effective from the time of its announcement to the parties. The General~~
37 Assembly without debate shall approve or disapprove of the judgment, or
38 may refer, (a debatable motion), any strictly constitutional issue(s) to the
39 Committee on Constitutional Business. In the case of referral, the Standing
40 Judicial Commission shall either dismiss some or all of the specific
41 charges raised in the case or decide the case only after the report of the
42 Committee on Constitutional Business has been heard and discussed. If
43 the General Assembly approves, the judgment of the Standing Judicial
44 Commission shall be final and shall be entered on the minutes of the
45 General Assembly as the action. If the General Assembly disapproves, it
46 may assume original jurisdiction at the point of the original complaint or

1 indictment, and/or assign the case back to the Standing Judicial
2 Commission, with or without the assumption of original jurisdiction,
3 and/or appoint, through the moderator, a special commission to hear the
4 case again, with or without the assumption of original jurisdiction. In all
5 cases, the level of informedness required on the part of commissioners
6 participating in said judicial deliberations shall be equal to that required of
7 the full Commission of the SJC when reviewing a proposed and
8 recommended decision made by an SJC panel as stated in SJC Manual
9 17.8.b. That is, the Moderator will poll each commissioner of the General
10 Assembly present as to whether or not they have read the following: 1)
11 The SJC's proposed decision; 2) All briefs timely filed by the parties; 3)
12 Those portions of the Record of the Case such commissioner feels is
13 necessary to understand the issues of the case. Any commissioner who is
14 not able to certify affirmatively to these inquiries shall not be eligible to
15 participate in discussion or vote in the case at hand.
16

17 If approved, these three sections would read as follows:
18

19 15-1. A commission differs from an ordinary committee in that while a
20 committee is appointed to examine, consider and report, a commission is
21 authorized to deliberate upon and conclude the business referred to it,
22 except in the case of judicial commissions of a Presbytery appointed under
23 *BCO* 15-3 and the case of the Standing Judicial Commission of the
24 General Assembly appointed under *BCO* 15-4. A commission shall keep a
25 full record of its proceedings, which shall be submitted to the court
26 appointing it. Upon such submission this record shall be entered on the
27 minutes of the court appointing, except in the case of a presbytery
28 commission serving as a session or a judicial commission as set forth in
29 *BCO* 15-3 and in the case of the Standing Judicial Commission of the
30 General Assembly appointed under *BCO* 15-4. When a commission is
31 appointed to serve as an interim Session, its actions are the actions of a
32 Session, not a Presbytery. Every commission of a Presbytery or Session
33 must submit complete minutes and a report of its activities at least once
34 annually to the court which commissioned it.
35

36 15-5. a. In the cases committed to it, the Standing Judicial Commission
37 shall have the judicial powers and be governed by the judicial procedures
38 of the General Assembly. Members of the Standing Judicial Commission
39 may file concurring or dissenting opinions, or a minority report as set forth
40 in (c) below. The General Assembly may direct the Standing Judicial
41 Commission to retry a case if upon the review of its minutes exceptions
42 are taken with respect to that case.
43

44 b. In each case the Standing Judicial Commission shall issue a summary of
45 the facts, a statement of the issues, its judgment and its reasoning, together

1 with any concurring or dissenting opinions. The General Assembly
2 without debate shall approve or disapprove of the judgment, or may refer,
3 (a debatable motion), any strictly constitutional issue(s) to the Committee
4 on Constitutional Business. In the case of referral, the Standing Judicial
5 Commission shall either dismiss some or all of the specific charges raised
6 in the case or decide the case only after the report of the Committee on
7 Constitutional Business has been heard and discussed. If the Assembly
8 approves, the judgment of the Commission shall be final and shall be
9 entered on the minutes of the Assembly as the action. If the General
10 Assembly disapproves, it may assume original jurisdiction at the point of
11 the original complaint or indictment, and/or assign the case back to the
12 Standing Judicial Commission, with or without the assumption of original
13 jurisdiction, and/or appoint, through the moderator, a special commission
14 to hear the case again, with or without the assumption of original
15 jurisdiction.

16
17 *Adopted by Southwest Florida Presbytery at its stated meeting, February 8, 2014*

18 *Attested by /s/ TE Freddy Fritz, stated clerk*