

The following is the Res. 12-14 bylaw draft reviewed by the commission on May 5–6, 2017 (17-2822):

**The Secretary of the Synod brings the following motion to the Board of Directors:**

WHEREAS, The 2016 Convention of The Lutheran Church—Missouri Synod, in its Resolution 12-14 and according to Bylaw 7.1.2, directed the Secretary of the Synod to consult with the Council of Presidents and develop ecclesiastical supervision bylaws addressing the present “unconstitutional state” of the present bylaws “with respect to Constitution Art. XI B 1–3 and Constitution Art. XIII 2,” as indicated in CCM Op. 16-2791; and

WHEREAS, The required consultation concluded on April 25, 2017, having been extended by mutual consent of the President of the Synod and the chairman of the Council of Presidents beyond the initially specified six months; and

WHEREAS, The Secretary of the Synod has presented a complete draft of bylaws, incorporating the direction of subsequent CCM opinions 16-2794 and 16-2797, as well as changes from the consultation with the Council of Presidents, to the Commissions on Constitutional Matters and Handbook; and

WHEREAS, The Commission on Constitutional Matters has given its approval of the bylaws proposed, as to content, in its May 5–6 meeting, and the Commission on Handbook has given its approval of the bylaws proposed, as to language, in its May 3 meeting, satisfying the requirements of commission review under Bylaw 7.1.2; and

WHEREAS, 2016 Resolution 12-14 now calls upon the Board of Directors, acting under Bylaw 7.1.2, to adopt the bylaw changes proposed, the board determining that they satisfy and do not exceed the direction given by the convention in said resolution; therefore be it

*Resolved*, That the Board of Directors, acting under Bylaw 7.1.2 and at the express direction of the 2016 convention in Resolution 12-14, adopt the following changes to the Bylaws of the Synod.

*(this motion requires passage by a two-thirds majority of the Board of Directors)*

The proposed bylaw changes are as follow:

**2.14 Expulsion of Congregations or Individuals  
from Membership in the Synod**

***Preamble***

2.14.1

*no change*

(a)

*no change*

(b) The action to commence expulsion of a congregation or individual from membership in the Synod is the ~~sole~~ responsibility of the district president who has the responsibility for ecclesiastical supervision of such member, under the supervision of the President of the Synod (Const. Art. XI B 1–3). This Bylaw section 2.14, among others, provides the procedures to carry out Article XIII of the Constitution, “Expulsion from the Synod.” However, it does not provide the procedure for the expulsion of the district presidents and the officers of the Synod (Bylaw section 2.15), the President of the Synod (Bylaw section 2.16), or individual members in cases involving sexual misconduct or criminal behavior (Bylaw section 2.17).

***Definition of Terms***

2.14.2 The definitions of terms used in this bylaw are as follows:

(a)–(g) *no change*

~~(h) **Fails to act:** No measures initiated within the required period of time to ascertain the truth or falsity of the accusations, or the stifling of a complaint by the refusal to act.~~

~~(i)–(sr) *no change*~~

~~(t) **Referral Panel:** A panel that may be formed of three circuit visitors or district presidents, who shall be selected according to these bylaws to determine, according to the facts learned from the investigation, whether or not to proceed.~~

~~(us)–(yw) *no change*~~

### **Consultation**

2.14.3 *no change*

### **Commencing an Action**

2.14.4 *no change*

2.14.4.1 The district president shall make his determination whether or not to suspend the member within 120 days after receipt of a formal written complaint or accusation, unless the district president requests, substantiates, and is granted an extension by the President of the Synod.

2.14.4.2 Before informing others of a determination not to suspend, if the matter involves doctrine or practice and a formal written accusation, the district president may seek the counsel and concurrence of the President of the Synod by conveying to him the accuser's formal written accusation, the record of his investigation, and his preliminary determination. The President of the Synod shall respond within 60 days.

(a) Should the President of the Synod concur, the district president may include the concurrence in his determination, indicating that it precludes an appeal for action by the accuser to the President of the Synod.

(b) Should the President of the Synod not concur, he shall consult with the district president, who may revise his determination. He may request additional time to extend his investigation, which the President of the Synod may grant.

2.14.4.1–3 *no change (renumbered)*

### **Referral Panel**

~~2.14.5 In the determination whether or not to initiate formal proceedings, the district president may form a Referral Panel consisting of three circuit visitors of the district.~~

~~(a) If three circuit visitors from the district are not available to serve by reason of conflict of interest or otherwise, the district president may select a sufficient number from other districts to form the panel.~~

~~(b) This panel shall be formed by blind draw and shall not include the circuit visitor of the accused or the accuser. The blind draw shall be administered by the district president and audited by witnesses.~~

~~2.14.5.1 After reviewing the accusation and the results of the investigation, the Referral Panel shall make the determination whether or not to initiate formal proceedings.~~

~~2.14.5.2 Whether made by the district president or the Referral Panel, if the determination is district president determines not to initiate formal proceedings, the district president shall in writing so inform the accuser, any other district president involved, and the involved member, which shall terminate the matter, subject to the following:~~

(a) If a matter of doctrine or practice is involved, the accuser may, within 15 days after receipt of such notice, appeal for action by the President of the Synod (Constitution Art. XI B 1–3). The accuser shall so notify the district president, who shall within 15 days:

(1) notify the accused and any other district president involved that an appeal for action is underway; and

(2) forward the appeal for action, with the record of his investigation and determination and the accuser's formal written accusation, to the President of the Synod.

(b) The President of the Synod shall, within 15 days of receipt of such appeal for action, consult with the district president.

(c) The President of the Synod may consult with the accuser, the accused, and others involved. He may appoint an investigative committee and / or ask an opinion of the CCM or CTCR, which opinion shall be followed. He shall consult with the vice-presidents of the Synod.

(d) The President of the Synod may, in a matter of doctrine and practice, and within 120 days of receipt of notice, suspend the member as provided in Bylaw 2.14.6 and then, as the "suspending ecclesiastical supervisor," carry out the formal proceedings of Bylaw 2.14.7 and following.

(e) If the determination is made not to initiate formal proceedings, the President of the Synod shall in writing so inform the accuser, any district president involved, and the involved member.

~~2.14.5.3 If the district president fails to act within 60 days after receipt of the formal written complaint or accusation, the accuser may present a formal written request to the district president for the forming of the Referral Panel, which request the district president must grant.~~

### **Commencing Formal Proceedings**

~~2.14.6 If the district president or the Referral Panel or the President of the Synod, acting under Bylaw 2.14.5, concludes that the facts form a basis for expulsion of the member under Article XIII of the Constitution, the district president in commencing the formal proceedings he shall~~

~~(a) provide to the member a written notification of the member's suspended status under Bylaw 2.13.4;~~

~~(b) provide to the member a written statement of the matter which sets forth the facts and states that he is requesting expulsion of the member from the Synod in accord with Article XIII of the Constitution; and~~

~~(c) provide to the member a written notification that the member has 15 days from the date of receipt of the statement of the matter to advise his district president that there is a desire to have the matter heard and resolved.~~

2.14.6.1 *no change*

### **Hearing Panel**

~~2.14.7 If the request for hearing as granted in Bylaw 2.14.6 (c) is made, the president of the district (the district president of the suspended/accused member) suspending ecclesiastical supervisor shall inform the Secretary of the Synod who shall initiate the formation of a Hearing Panel, such formation to be accomplished within 30 days of the request in accordance with the provisions in this bylaw.~~

~~2.14.7.1 At the time that the request for hearing is made, the district president suspending ecclesiastical supervisor shall forward to the Secretary of the Synod the statement of the matter and a written memorandum describing the manner in which there was compliance with the guidelines provided in Matthew 18:15-16, "previous futile admonition" (Constitution Art. XIII 1), as well as all of the provisions of Bylaws 2.14.3-2.14.6.1.~~

~~2.14.7.2 A Hearing Panel consisting of two district presidents (excluding the involved district president[s]), two lay reconcilers, and one ordained reconciler, selected as follows, shall conduct the hearing:~~

~~(a) One district president shall be selected by the accused.~~

~~(b) One district president shall be selected by the ~~district president who imposed the suspended status~~ suspending ecclesiastical supervisor (a district president may not choose himself).~~

(c) *no change*

(d) Each Hearing Panel shall be assisted by a nonvoting hearing facilitator selected according to Bylaw 2.14.2 (kj).

(e)–(g) *no change*

2.14.7.3 Upon receipt of a request for hearing, the Secretary of the Synod shall promptly notify the accused and the ~~district president who imposed the suspended status~~suspending ecclesiastical supervisor of their respective right to choose one Hearing Panel member and direct that the identity of their selection be transmitted to the Secretary of the Synod within 15 days from the date of such notice. If either party declines to make a selection within 15 days, the Secretary of the Synod shall then make such selection within five days.

2.14.7.4–5 *no change*

2.14.7.6 Within 15 days after the Hearing Panel is constituted, the hearing facilitator shall, after conferring with the panel, the accused, and the ~~district president who imposed the suspended status~~suspending ecclesiastical supervisor, select a date and location within 45 days after the Hearing Panel was constituted for the panel to hear and consider the matter, unless there is unanimous consent by the panel members for a short delay beyond such 45 days for reasons the panel deems appropriate.

2.14.7.7–2.14.7.9 *no change*

#### ***Appeal Panel***

2.14.8 *no change*

#### ***Final Hearing Panel***

2.14.9–2.14.9.1 *no change*

#### ***General Regulations***

2.14.10–2.14.10.3 *no change*

### **2.15 Expulsion of a District President or Officer from Membership in the Synod**

2.15.1 *no change*

#### ***Definition of Terms***

2.15.2 For a definition of terms used in this bylaw, see Bylaw 2.14.2.

#### ***Consultation***

2.15.3 *no change*

#### ***Commencing an Action***

2.15.4–2.15.4 *no change*

2.15.4.1 The President of the Synod shall make his determination whether or not to suspend the member within 120 days after receipt of a formal written complaint or accusation, unless the majority of the uninvolved vice-presidents of the Synod concur that there is a need for more time to conclude an active investigation.

2.15.4.12 *no change (renumbered)*

#### ***Referral Panel***

~~2.15.5 In the determination of whether or not to initiate formal proceedings, the President of the Synod may form a Referral Panel consisting of three district presidents.~~

~~(a) This panel shall be formed by blind draw, shall not include the district president that is a party to the matter or the district president of an accused officer or the district president of the accuser.~~

~~(b) The blind draw shall be administered by the chairman of the Council of Presidents audited by witnesses.~~

~~2.15.5.1 After reviewing the accusation and the results of the investigation, the Referral Panel shall make the determination whether or not to initiate formal proceedings.~~

~~2.15.5.2 Whether made by~~If the President of the Synod ~~or the Referral Panel~~, if the determination ~~is~~determines not to initiate formal proceedings, ~~the President of the Synod~~he shall in writing so inform the accuser, any other district president involved, and the involved member, which shall terminate the matter.

~~2.15.5.3 If the President of the Synod fails to act within 60 days after receipt of the formal written complaint or accusation, the accuser may present a formal written request to the President of the Synod for the forming of the Referral Panel, which request the President of the Synod must grant. If the provisions set forth in Bylaw 2.15.4 have not been carried out, the Referral Panel shall carry out these provisions in the process of making its determination, within 60 days, whether or not to initiate formal proceedings.~~

### **Commencing Formal Proceedings**

2.15.6 If the President of the Synod ~~or the Referral Panel~~ concludes that the facts form a basis for expulsion of the member under Article XIII of the Constitution, ~~the President of the Synod~~ in commencing the formal proceedings he shall

(a)-(c) *no change*

2.15.6.1 *no change*

### **Hearing Panel**

2.15.7 If the request for hearing as granted in Bylaw 2.15.6 (c) is made, the ~~President of the Synod~~suspending ecclesiastical supervisor shall inform the Secretary of the Synod who shall initiate the formation of a Hearing Panel, such formation to be accomplished within 30 days of the request in accordance with the provisions in this bylaw.

2.15.7.1 At the time that the request for hearing is made, the ~~President of the Synod~~suspending ecclesiastical supervisor shall forward to the Secretary of the Synod the statement of the matter and a written memorandum describing the manner in which there was compliance with the guidelines provided in Matthew 18:15-16 and “previous futile admonition” (Constitution Art. XIII), as well as all of the provisions of Bylaws 2.15.3-2.15.6.1.

2.15.7.2 A Hearing Panel consisting of two district presidents (excluding the involved district president[s]), two lay reconcilers, and one ordained reconciler, selected as follows, shall conduct the hearing:

(a) *no change*

(b) One district president shall be selected by the ~~President of the Synod~~suspending ecclesiastical supervisor.

(c) *no change*

(d) Each Hearing Panel shall be assisted by a nonvoting hearing facilitator selected according to Bylaw 2.14.2 (k).

(e)-(g) *no change*

~~(h) If a Referral Panel was formed, the three district presidents that served in that capacity are not eligible to serve on a Hearing Panel.~~

2.15.7.3 Upon receipt of a request for hearing, the Secretary of the Synod shall promptly notify the accused and the ~~President of the Synod~~suspending ecclesiastical supervisor of their respective right to choose one Hearing Panel member and direct that the identity of their selection be transmitted to the Secretary of the Synod within 15 days from the date of such notice. If either party declines to make a selection within 15 days, the Secretary of the Synod shall then make such selection within 5 days.

- 2.15.7.4–2.15.7.5 *no change*
- 2.15.7.6 Within 15 days after the Hearing Panel is constituted, the hearing facilitator shall, after conferring with the panel, the accused, and the ~~President of the Synod~~suspending ecclesiastical supervisor, select a date and location within 45 days after the panel was constituted for the panel to hear and consider the matter, unless there is unanimous consent by the panel members for a short delay beyond such 45 days for reasons the panel deems appropriate.
- 2.15.7.7–2.15.7.8 *no change*
- 2.15.7.9 Upon completion of the hearing, the Hearing Panel shall deliberate and then issue its written decision within 30 days.
- (a) Copies of the decision shall be mailed to the accused, the accuser and the accuser’s district president, the Secretary of the Synod, ~~and the President of the Synod,~~ and the suspending ecclesiastical supervisor, if other than the President of the Synod.
- (b)–(d) *no change*

***Appeal Panel***

- 2.15.8 The decision of the Hearing Panel may be appealed by the accused (if an active participant in the hearing before the Hearing Panel), or by the President of the Synod if a question of doctrine or practice is involved (Constitution Art. XI B 1–3) within 15 days after receiving the decision. Such request for an appeal shall be submitted to the Secretary of the Synod with copies provided to the district president(s) of the accuser and the accused, the chairman of the Hearing Panel, the accuser, and the President of the Synod, and shall be accompanied by a written memorandum stating the basis for the request.
- (a) *no change*
- (1) One district president shall be selected by the accused, one by the ~~ecclesiastical supervisor of the accused~~suspending ecclesiastical supervisor, and the third by the two Appeal Panel members so selected.
- (2) *no change*
- (b)–(f) *no change*

***Final Hearing Panel***

- 2.15.9–2.15.9.1 *no change*

***General Regulations***

- 2.15.10–2.15.10.3 *no change*

**2.16 Expulsion of a President of the Synod from Membership in the Synod**

- 2.16.1 *no change*

***Definition of Terms***

- 2.16.2 For a definition of terms used in this bylaw, see the “Definition of Terms” under Bylaw 2.14.2.

***Consultation***

- 2.16.3 *no change*

***Commencing an Action***

- 2.16.4–2.16.4.1 *no change*
- 2.16.5 The chairman of the Council of Presidents shall make his recommendation whether or not to suspend the President of the Synod within 120 days of receipt of a formal written complaint or accusation, unless the majority of uninvolved district presidents concur in his desire to extend an investigation.

***Referral Panel***

~~2.16.5 In the determination whether or not to initiate formal proceedings, the chairman of the Council of Presidents may form a Referral Panel consisting of three district presidents.~~

~~(a) This panel shall be formed by blind draw and shall not include any district president that is a party to the matter or the accuser district president.~~

~~(b) The blind draw shall be administered by the chairman of the Council of Presidents and audited by witnesses.~~

~~2.16.5.1 After reviewing the accusation and the results of the investigation, the Referral Panel shall determine its recommendation whether or not to initiate formal proceedings.~~

~~2.16.5.2 If the chairman of the Council of Presidents fails to act within 60 days after receipt of the formal written complaint or accusation, the district president who is the accuser may present a formal written request to the chairman of the Council of Presidents for the forming of a Referral Panel, which request the chairman must grant. If the provisions of Bylaw 2.16.4 have not been carried out, the Referral Panel shall carry out these provisions in the process of determining its recommendation within 60 days whether or not to initiate formal proceedings.~~

~~2.16.5.3.1 Whether made by the chairman of the Council of Presidents or the Referral Panel, i~~  
In the recommendation whether or not to initiate formal proceedings, the chairman of the Council of Presidents shall bring the matter to the Council of Presidents for hearing the recommendation, for discussion, and for vote.

(a)-(c) *no change*

***Commencing Formal Proceedings***

2.16.6-2.16.6.1 *no change*

***Hearing Panel***

2.16.7-2.16.7.7 *no change*

***Final Hearing***

2.16.8 *no change*

***Decision by Congregations***

2.16.9-2.16.9.3 *no change*

***General Regulations***

2.16.10-2.16.10.4 *no change*

**2.17 Expulsion of Individuals from Membership in the Synod  
as a Result of Sexual Misconduct or Criminal Behavior**

2.17.1 *no change*

***Definition of Terms***

2.17.2 For a definition of terms used in this bylaw, see the “Definition of Terms” under Bylaw 2.14.2.

***Consultation***

2.17.3 *no change*

***Commencing an Action***

2.17.4 *no change*

2.17.4.1 The ecclesiastical supervisor shall make his determination whether or not to suspend the member within 120 days after receipt of a formal written complaint or accusation, unless:

(a) in the event that the accused is a district president or officer of the Synod, the President of the Synod extends his investigation with concurrence of the majority of the uninvolved vice-

presidents of the Synod;

(b) in the event that the accused is the President of the Synod, the chairman of the Council of Presidents extends his investigation with concurrence of the majority of the uninvolved district presidents of the Synod.

(c) otherwise, the district president requests, substantiates, and is granted an extension by the President of the Synod.

2.17.4.2 Before informing others of a determination not to suspend, if the matter involves doctrine or practice and a formal written accusation, a district president may seek the counsel and concurrence of the President of the Synod by conveying to him the accuser's formal written accusation, the record of his investigation, and his preliminary determination. The President of the Synod shall respond within 60 days.

(a) Should the President of the Synod concur, the district president may include the concurrence in his determination, indicating that it precludes an appeal for action by the accuser to the President of the Synod.

(b) Should the President of the Synod not concur, he shall consult with the district president, who may revise his determination. He may request additional time to extend his investigation, which the President of the Synod may grant.

2.17.4.3 In the event the district president has a conflict of interest or is unable to act, the next qualified officer of the district shall function in his place. The President of the Synod, who is the ecclesiastical supervisor of the district president, shall determine any challenge to the eligibility of the district president to act that is not agreed to by the district president.

(a) In the event that the accused is a district president is the accused, the President of the Synod shall function in such instance;

(b) In the event that the accused is an officer of the Synod, the President of the Synod shall function in such instance;

(c) In the event that the accused is the President of the Synod, the chairman of the Council of Presidents shall function in such instance, and the matter shall thereafter proceed as set forth in Bylaws 2.16.4–2.16.10.4.

### ***Referral Panel***

~~2.17.5 In the determination whether or not to initiate formal proceedings, the district president may form a Referral Panel consisting of three circuit visitors of the district.~~

~~(a) If three circuit visitors from the district are not available to serve by reason of conflict of interest or otherwise, the district president may select a sufficient number from other districts in order to form the panel.~~

~~(b) This panel shall be formed by blind draw and shall not include the circuit visitor of the accused or the accuser. The blind draw shall be administered by the district president audited by witnesses.~~

~~2.17.5.1 In the event that the accused is a district president, an officer of the Synod, or the President of the Synod, the Referral Panel shall consist of three district presidents selected by a blind draw administered by the chairman of the Council of Presidents and audited by witnesses. Such panel, which shall exclude any involved district president, shall function as set forth hereafter.~~

~~2.17.5.2 After reviewing the accusation and the results of the investigation, the Referral Panel shall make the determination, within 60 days, whether or not to initiate formal proceedings.~~

~~2.17.5.3 Whether made by the district president or the Referral Panel, if the determination is not to initiate formal proceedings, the district president shall in writing so inform the accuser, any other district president involved, and the involved member, which shall terminate the matter-, subject to the following:~~

(a) If a matter of doctrine or practice is involved, the accuser may, within 15 days after receipt

of such notice, appeal for action by the President of the Synod (Constitution Art. XI B 1-3). The accuser shall so notify the district president, who shall within 15 days:

(1) notify the accused and any other district president involved that an appeal for action is underway; and

(2) forward the appeal for action, with the record of his investigation and determination and the accuser's formal written accusation, to the President of the Synod.

(b) The President of the Synod shall, within 15 days of receipt of such appeal for action, consult with the district president.

(c) The President of the Synod may consult with the accuser, the accused, and others involved. He may appoint an investigative committee and / or ask an opinion of the CCM or CTCR, which opinion shall be followed. He shall consult with the vice-presidents of the Synod.

(d) The President of the Synod may, in a matter of doctrine and practice, and within 120 days of receipt of notice, suspend the member as provided in Bylaw 2.17.6 and then, as the "suspending ecclesiastical supervisor," carry out the formal proceedings of Bylaw 2.17.7 and following.

(e) If the determination is made not to initiate formal proceedings, the President of the Synod shall in writing so inform the accuser, any district president involved, and the involved member.

~~2.17.5.4 If the district president fails to act within 60 days after receipt of the formal written complaint or accusation, the accuser may present a formal written request to the district president for the forming of the Referral Panel, which request the district president must grant. If the provisions of Bylaw 2.17.4 have not been carried out, the Referral Panel shall carry out these provisions in the process of making its determination whether or not to initiate formal proceedings.~~

### **Commencing Formal Proceedings**

2.17.6 If the district president or the President of the Synod or the chairman of the Council of Presidents ~~or the Referral Panel~~, whichever the case may be, concludes that the facts form a basis for expulsion of the member under Article XIII of the Constitution, the appropriate ecclesiastical supervisor in commencing the formal proceedings shall

(a)-(c) *no change*

2.17.6.1 *no change*

### **Hearing Panel**

2.17.7-2.17.7.1 *no change*

2.17.7.2 A Hearing Panel consisting of two district presidents (excluding the involved district president[s]), two lay reconcilers, and one ordained reconciler, selected as follows, shall conduct the hearing:

(a)-(c) *no change*

(d) Each Hearing Panel shall be assisted by a nonvoting hearing facilitator selected according to Bylaw 2.14.2 (kj).

(e)-(g) *no change*

2.17.7.3-2.17.7.8 *no change*

2.17.7.9 Upon completion of the hearing, the Hearing Panel shall deliberate and then issue its written decision within 30 days.

(a) Copies of the decision shall be mailed to the accused, the ~~district president who imposed the suspension~~suspending ecclesiastical supervisor, the accuser and his/her district president, the Secretary of the Synod, and the President of the Synod.

(b)-(d) *no change*

***Appeal Panel***

2.17.8 *no change*

***Final Hearing Panel***

2.17.9–2.17.9.1 *no change*

***General Regulations***

2.17.10–2.17.10.4 *no change*