**TRADITIONAL PLAN LEGISLATION – SUMMARY of JUDICIAL COUNCIL RULINGS**

One of the key constitutional issues that the Judicial Council spoke to in its review of the Traditional Plan in [Judicial Council Ruling 1366](http://cdnfiles.umc.org/Website_Properties/JCD_1366_(Docket_No._1018-12).pdf) is the principle of “legality,” which requires all individuals and entities to be equally bound by church law and forbids selective and partial enforcement. Much of the Traditional Plan legislation as originally submitted was focused on the sections of the *Discipline* related to same-sex marriage and ordination of “self-avowed practicing homosexuals” and as a result violated the principle of legality.

Another key issue is depriving clergy of the right to fair and due process, which was particularly important in ruling the sections dealing with the proposed “council relations committee” within the Council of Bishops unconstitutional.

Unless otherwise noted, all approved legislation takes effect January 1, 2020. Judicial Council meets in April 2019 to review the actions taken by the recent General Conference. The 2020 General Conference will be held May 5 - May 15. Thus there is potential for new requirements around ordination to be in place for candidates coming forward in the 2020 annual conference season.

**TRADITIONAL PLAN PETITIONS APPROVED & RULED CONSTITUTIONAL:**

1. **DEFINE SELF AVOWED PRACTICING HOMOSEXUAL** - Amended footnote to paragraph 304.3 on definition of “self-avowed practicing homosexual” to include anyone in a same-sex marriage or who publicly states that he or she is “a practicing homosexual.” – **CONSTITUTIONAL**, petition [90032](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90032)
2. **EPISCOPAL RESPONSIBILITIES** - Prohibits bishops from consecrating new bishops who are “self-avowed homosexuals” (the word “practicing” is not included here) even if elected, and prohibits bishops from ordaining “self-avowed homosexuals” (again not “practicing”) or candidates for whom the Board of Ordained Ministry has “failed to certify” it carried out the “disciplinarily mandated examination” – even if approved by the Board of Ordained Ministry and clergy session of annual conference – **CONSTITUTIONAL**, petition [90036](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90037).
3. **MINIMUM PENALTIES** – mandates mandatory one-year suspension for first offense celebrating a same-sex union; and a mandatory termination of conference membership/loss of orders for second offense – **CONSTITUTIONAL**, petition [90042](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90042)
4. **AMEND COMPLAINT PROCESS** – requires explanation of any dismissal of complaint to be shared with the complainant – **CONSTITUTIONAL**, petition [90044](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90044)
5. **REVISE JUST RESOLUTION PROCESS** – requires a statement of harms to be part of the just resolution of a complaint; requires commitment not to repeat the violation – **CONSTITUTIONAL EXCEPT** the provision that requires commitments to not repeat the actions, petition [90045](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90045)
6. **MAKE COMPLAINANT A PARTY TO JUST RESOLUTION** – requires inclusion of complainant in the just resolution process; “every effort shall be made” to achieve the complainant’s agreement with the proposed resolution – **CONSTITUTIONAL**, petition [90046](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=46)

**TRADITIONAL PLAN PETITIONS APPROVED & RULED UNCONSTITUTIONAL:**

1. **INVOLUNTARY RETIREMENT FOR BISHOPS** - Would allow Council of Bishops to vote to involuntarily place a bishop in retired relationship based on recommendation of the “council relations committee” – **UNCONSTITUTIONAL**, petition [90033](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90033)
2. **INVOLUNTARY LEAVE FOR BISHOPS** - Would allow Council of Bishops to vote to place a bishop on involuntary leave based on recommendation of the “council relations committee” – **UNCONSTITUTIONAL**, petition [90034](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90034)
3. **COUNCIL RELATIONS COMMITTEE** - Creates the “council relations committee” in the Council of Bishops to hear complaints against bishops unwilling to certify that they will “uphold, enforce, and maintain” the *Discipline* relative to “self-avowed practicing homosexuals” – **UNCONSTITUTIONAL**, petition [90035](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90035)
4. **BOOM EXAMINATION OF CANDIDATES** - Describes the process for the Board of Ordained Ministry to inquire whether any candidate for local pastor, associate member, provisional member, or full member is a “practicing homosexual,” including by looking at social media; requires BOOM to certify the result – **UNCONSTITUTIONAL**, petition [90038](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90038)
5. **BOOM ANNUAL CONFERENCE CERTIFICATION (PARAGRAPH 806.9)** - Requires annual conferences to certify that the bishop has only nominated members to BOOM who will “uphold, enforce, maintain” *Discipline* around marriage and ordination of practicing homosexuals; mandates that GCFA withholds funds & use of logo for those who do not – **UNCONSTITUTIONAL**, petition [90039](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90039) (affects Paragraph 806.9, which is the language restricting *general church* funds from supporting “the acceptance of homosexuality”)
6. **BOOM ANNUAL CONFERENCE CERTIFICATION (PARAGRAPH 613.19)** - Requires annual conferences to certify that the bishop has only nominated members to BOOM who will “uphold, enforce, maintain” *Discipline* around marriage and ordination of practicing homosexuals; mandates that GCFA withholds funds & use of logo for those who do not – **UNCONSTITUTIONAL**, petition [90040](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90040) (affects Paragraph 613.19, which is the language restricting *annual conference* funds from supporting “the acceptance of homosexuality”)

**STATUS UNCERTAIN / WILL BE REVIEWED BY JUDICIAL COUNCIL IN APRIL:**

1. **BOOM CERTIFICATION** - Requires any clergyperson nominated for membership on the Board of Ordained Ministry to certify that they will “uphold, enforce, and maintain” the *Discipline* “in its entirety, including but not limited to all qualifications for ordination” likewise requires the bishop to certify that he/she has only nominated those who will “uphold, enforce, and maintain” the *Discipline –* This petition was **AMENDED** from its original form. The **ORIGINAL** text was ruled**UNCONSTITUTIONAL** because it was limited to the parts of the *Discipline* related to questions around homosexuality, now will need to be reviewed with the amendment, petition [90037](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90037)
2. **APPROVAL OF CANDIDATES** – no candidate may be approved for licensing, ordination or commissioning without first meeting all qualifications in Paragraph 304.1-3, based on “the full examination and thorough inquiry into the person’s fitness”; references Judicial Council Decisions [1343](http://www.umc.org/decisions/71962) & [1344](http://www.umc.org/decisions/71963); bishop given authority to rule “unqualified” candidates out of order – **PREVIOUSLY RULED** **CONSTITUTIONAL**, petition [90043](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90043). **HOWEVER**, since that time, decision [1368](http://www.umc.org/decisions/79262) further delineated the responsibilities of the clergy session versus the responsibilities of bishops (separation of powers).
3. **GIVE CHURCH RIGHT TO APPEAL** – gives the church the ability to appeal verdict of a trial court to the committee on appeals and then the Judicial Council in cases of “egregious errors of Church law or administration” – **PREVIOUSLY RULED CONSTITUTIONAL,** however, double jeopardy has not been fully tested in case law by Judicial Council and may require an amendment to guarantee, per [Decision 1366](http://cdnfiles.umc.org/Website_Properties/JCD_1366_(Docket_No._1018-12).pdf) (pp.51ff.) petition [90047](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90047)
4. **DISAFFILIATION (TAYLOR) PETITION – AS AMENDED** – allows churches to disaffiliate from the UMC over issues of human sexuality; includes time limit of December 31, 2023; requires church conference vote with 2/3 majority; sets approvals required by the annual conference; sets standard terms of the disaffiliation agreement; limits apportionment payments to 24 months; allows church to keep property; requires pro rata payment of any unfunded pension liabilities; requires payment of other liabilities to annual conference; local churches disaffiliating may continue to sponsor employee benefit plans through GBOPHB if they choose; releases trust clause when process is completed – **QUESTION OF CONSTITUTIONALITY** based on Paragraph 41, which requires an annual conference to vote on the transfer of a church from one annual conference to another - though at least three members of the Judicial Council have expressed doubts that Paragraph 41 is relevant to the question (Decision [1377](http://www.umc.org/decisions/79321)), petition [90066](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90066)

**OTHER ACTIONS OF 2019 GENERAL CONFERENCE:**

1. **CENTRAL CONFERENCE IMPLEMENTATION TIME** – set allowance of 18 months after close of any GC for implementation of decisions in central conferences where English is not the primary language; set requirement that legislation passed at 2019 GC not take effect in Central Conferences until 12 months after close of the 2020 GC – **CONSTITUTIONAL**, petition [90015](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&number=15)
2. **REQUIREMENT THAT EXITING CHURCHES PAY PRO RATA SHARE OF PENSION LIABILITY** – requires local churches to pay their share of unfunded pension liability when closed, abandoned or released from trust clause to exit denomination, based on a calculation done by GBOPHB – **CONSTITUTIONAL**, petition [90016](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&number=16)
3. **PENSION TREATMENT FOR EXITING CLERGY** – exiting clergy are treated as fully vested but will have balances invested in UMPIP – **CONSTITUTIONAL**, petition [90017](http://calms2019.umc.org/Menu.aspx?type=Petition&mode=Single&Number=90017)

**Prepared by:**

Rev. Joseph Monahan, Medford UMC, Medford NJ

[joe@medfordumc.org](mailto:joe@medfordumc.org)