

ON MR

VI SANCTIONS IN THE CHURCH

cc. 1394-1396

even a civil marriage incurs an automatic (*latae sententiae*) suspension; but if he is given a warning and he does not have a change of heart and continues to give scandal, he can be punished gradually with various deprivations, even to the point of dismissal from the clerical state.

§2. A religious in perpetual vows who is not a cleric and who attempts even a civil marriage incurs an automatic (*latae sententiae*) interdict, with due regard for the prescription of can. 694.

One of the most serious obligations of most clerics (c. 277)<sup>67</sup> and all religious (c. 599) is observing perfect and perpetual chastity as well as celibacy, which prevents them from marrying. Furthermore, canons 1087-1088 invalidate the attempted marriages of clerics other than married deacons as well as members of religious institutes in perpetual (not temporary) vows. Furthermore, married deacons are prevented from remarrying after the death of their spouses. If a cleric violates the law, he incurs a *latae sententiae* suspension. However, if after a formal warning he contumaciously and scandalously persists in the new relationship, he is liable to increasingly severe *ferendae sententiae* penalties—including dismissal from the clerical state (§1).<sup>68</sup> The non-clerical religious incurs a *latae sententiae* interdict and is automatically dismissed from the religious institute (c. 694, §1, 2°). The cleric automatically loses any ecclesiastical office he holds (c. 194, §1, 3°). While nothing is stated explicitly about the spouse of the above-mentioned cleric or religious, canon 1329, §2 on complicity in an offense punished by a *latae sententiae* penalty is relevant here.

Various Violations of Clerical Chastity

Canon 1395 — §1. Outside the case mentioned in can. 1394, a cleric who lives in concubinage or a cleric who remains in another external sin against the sixth commandment of the Decalogue which produces scandal is to be punished with a suspension; and if such a cleric persists in such an offense after having been admonished, other penalties can be added gradually including dismissal from the clerical state.

§2. If a cleric has otherwise committed an offense against the sixth commandment of the Decalogue with force or threats or publicly or with a minor below the age of sixteen, the cleric is to be

punished with just penalties, including dismissal from the clerical state if the case warrants it.

A similar concern for an authentic living of clerical chastity prompts this canon on other violations of that virtue<sup>69</sup> besides the one penalized in the preceding canon. Paragraph one treats of concubinage, or an ongoing non-marital sexual relationship between a cleric and a woman. It also encompasses other *habitual* sexual offenses by a cleric that involve scandal yet not the exclusivity of the concubinary relationship. A *ferendae sententiae* suspension is warranted initially, with subsequent increasingly severe penalties which are dependent on the cleric's obstinacy in refusing to heed official warnings.

Paragraph two deals with certain *non-habitual* clerical sexual offenses, which are especially serious if they are perpetrated publicly, or with force or threats, or with a person of either sex under sixteen years of age. Initially such an offense is not viewed as seriously as the preceding ones since only "just penalties" are imposed. Yet if the remedial measures are unsuccessful, even such a cleric may ultimately be dismissed from the clerical state.

Great care should be exercised by church authorities in this delicate area. Frequently the most beneficial approach is a therapeutic rather than a penal one, especially if there is diminished imputability on the part of the cleric. However, while the well-being and future ministry of the offending cleric are key considerations, due cognizance also has to be taken of the damage done to the community and individuals within it.

Violation of Residence Obligation

Canon 1396 — One who seriously violates the obligation of residence to which he is bound by reason of an ecclesiastical office is to be punished with a just penalty including even deprivation of office after a warning.

This provision penalizes those gravely violating the residence obligation attached to certain offices, e.g., bishop,<sup>70</sup> pastor,<sup>71</sup> or parochial vicar.<sup>72</sup> The canon permits a certain discretion in applying penalties depending on the gravity of the offense. Yet if the cleric obstinately refuses to be duly present to

<sup>67</sup>An exception to the general rule for clerics is the married deacon (c. 1042, 1°).

<sup>68</sup>See CIC 2388. Post-Code developments further reinforced the severity of the excommunication for married priests who sought absolution from the censure yet were unable to separate from their wives. See Bouscaren, 893-896.

<sup>69</sup>See c. 277. Also CIC 133; 2358-2359. See also CIC 2176-2181 for a special administrative process dealing with clerics living in concubinage, which is not incorporated in the revised law.

<sup>70</sup>See c. 395 for the residence obligation of residential bishops and c. 410 for that of coadjutor and auxiliary bishops.

<sup>71</sup>See c. 533 for the residence obligation of individual pastors and c. 543, §2, 1° for those involved in a team ministry.

<sup>72</sup>See c. 550 for the residence obligation of parochial vicars (formerly assistant pastors or curates).



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*9/8/96*

**THE  
CODE OF  
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A TEXT AND  
COMMENTARY**

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COMMISSIONED BY  
THE CANON LAW SOCIETY OF AMERICA

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PAULIST PRESS  
*New York/Mahwah*